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NEW HAMPSHIRE SUPREME COURT - CONCORD

NEW HAMPSHIRE TASK FORCE ON DOMESTIC VIOLENCE

PUBLIC HEARING

JANUARY 21, 2022

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1 (Proceedings commence at 1:02 p.m.)

2 JUSTICE HANTZ MARCONI: Okay. We are ready with the
3 livestream. That's why we had to have a little down time
4 here.

5 Good afternoon. I'm Justice Hantz Marconi, an
6 associate justice here at the Supreme Court, chair of the
7 court's Task Force on Domestic Violence Cases in the Judicial
8 System.

9 Today, the task force is holding a public hearing to
10 help us in our review of the subjects the court has asked it
11 to review, which include practices in the Superior and Circuit
12 Court procedure in domestic violence cases and resources
13 needed to better support domestic violence victims, the
14 current status of New Hampshire law regarding domestic
15 violence, criteria for making appellate decisions related to
16 domestic violence and civil stalking protective orders
17 available to the public, court forms related to domestic
18 violence, increasing access for domestic violence victims to
19 legal counsel and victim advocates, the current state of
20 relationships between the courts, law enforcement, criminal
21 defense attorneys, domestic violence advocates, and steps to
22 improve communication, and any other relevant subject.

23 We look forward to your input. Joining me are
24 members of the task force and its working group. A complete
25 list of those members is available on the Judicial Branch



1 website. This public hearing is being livestreamed on the
2 Judicial Branch's website, and recording -- a recording will
3 be uploaded to the website.

4 We hope that this meeting will allow us to hear
5 directly from a broad spectrum of people. As our time is
6 limited, we expect each participant to couch your remarks and
7 be aware of time, but we're not going to put a specific time
8 limit on you. If you do not get an opportunity to speak or
9 choose not to, there are comment sheets in back for you to
10 fill out, which will be collected at the end of the hearing.

11 You're also encouraged to email or send mail via
12 post office, with your comments, to the task force.
13 Information about how to do so is on our website and also in a
14 handout at the back, in the court lobby.

15 In addition, starting next week through the end of
16 the month, we will have a court information call center, toll-
17 free number. It's a standard toll-free number, 855-212-1234.
18 That will be available Monday through Friday, 8 to 4, to
19 receive calls and allow for a call-back from a task force
20 member. Detailed instructions on how to reach the task force
21 by using the call-in number is also included on the form
22 available in the court lobby.

23 So those are the preliminaries. We will now proceed
24 with the hearing. I will call on people to come up to the
25 microphone and speak in the order in which they signed up.



1 UNIDENTIFIED SPEAKER: Where is it now?

2 JUSTICE HANTZ MARCONI: Oh, sorry. The sign-up
3 sheets were out front with the security. And we will be
4 circulating pick-up or sign-up sheets as the afternoon
5 progresses.

6 So I have Dr. Rhonda Hodge first on my list.

7 DR. HODGE: Hi. Thank you so much. So my name's
8 Dr. Rhonda Hodge, and I own one of the largest psychiatric
9 practices in Salem, New Hampshire. I treat all patients from
10 all over New Hampshire.

11 This has definitely been something that I have been
12 trying to be as diligent as possible with what's been going on
13 in the State of New Hampshire; make the bold statement that I
14 no longer feel comfortable with patients coming to me (audio
15 interference) in domestic violence situations. I no -- I no
16 longer feel comfortable actually having them leave their
17 relationship. It's a super scary thing for me to say as a
18 provider.

19 The protocols, the things that are in place, they
20 don't make sense for the reality of what domestic violence
21 looks like. We're constantly putting kids in really dangerous
22 situations. One of the pieces that I've been working on and
23 kind of putting together is that I also find it not fair what
24 we do to our judges and what we do to the Supreme Court.

25 There is no way that I can expect the judges in New



1 Hampshire or the judges, you know, nationally to know what
2 complex PTSD looks like, to know what it feels like to be a
3 victim, to know that -- what narcissistic personality disorder
4 looks like. You have these facts come before you that are not
5 in your wheelhouse. There's no way. You're not trained in
6 developmental psychology or developmental medicine or
7 pediatric medicine.

8 And I constantly have these people that will go to
9 the court, like, no, let's do it. We'll go to the court.
10 We're going to keep you safe. I really trusted, in the first
11 20 years of my career, that the states keep people safe. It's
12 just not true, and I don't think it's for any other reason. I
13 mean, I do feel like people do the best that they can, and the
14 judges are doing the best that they can with what they have.

15 And now we have lots of imagery all over all of
16 these websites of all of these judges who are really good
17 people, but they're being blamed for making these really
18 difficult decisions that they're just not trained to be able
19 to make.

20 With boots on the ground, I'm seeing it all the
21 time. I'm seeing kids going back to abusive families
22 because -- it's usually Mom, but it is dads too, right?
23 Dads -- there are -- you know, abuse goes both ways, but it is
24 predominantly female, going back to these situations that I
25 know, in my heart and my soul, they're being abused. The



1 GA -- or they're being manipulated, based on whatever is going
2 on to continue to abuse Mom. And I have to support it.

3 And we've had so many cases throughout the state
4 that I don't want, you know, to fully, like, alarm people, but
5 we've seen -- I have been to court with people where there's a
6 service weapon being used and being threatened for Mom and
7 child. There's no -- like, there's no supervised visits.
8 There's no, like, nothing. The protocols just don't -- I
9 don't know if they don't work. They don't make sense for what
10 the reality of the situation is.

11 I have situations where I've taken some patients to
12 the police station for -- in one case, and I -- I did get
13 permission to speak about it, the ex-boyfriend was actually
14 digging graves for the family in the back yard and just
15 walking -- and then walking into the home he was not supposed
16 to be at, that he had some -- he was actually a doctor, and he
17 had some psychiatric things going on. But they're not kept
18 safe. The restraining order was not supported.

19 He was digging graves in their back yard and then
20 putting on Instagram pictures of some Satanic something. Not
21 supported, so she had to move. And when you move, if you do
22 have -- like, if you do have the financial means to move,
23 which a lot of people don't, your new address is still made
24 public. Any sort of real estate transaction's public. I
25 mean, there are so many little things that if you don't know,



1 you don't know.

2 And there is a -- I mean, there is a program, right,
3 where we can keep -- throughout the State of New Hampshire,
4 where you can keep your residence -- you can use it -- I -- I
5 forget what it's called, the address confidentiality. But it
6 doesn't work if you are somebody who can buy a house. It
7 doesn't work if you are somebody who needs to put your kid in
8 school. It doesn't work. There's so many loopholes to that.
9 So it's a very small population that that works for.

10 And if somebody's going to stalk you, they're going
11 to stalk you. It's not going to be -- it's not going to be
12 something, like I said, essentially, that will work, I mean,
13 with all the public information.

14 I was speaking last week at the State House, and I
15 don't even know how many people know about the devices that
16 are being used now. You guys know, like, you can find your
17 Apple Watch, like, your Apple -- those little Apple things
18 that are just being stuck in people's cars. I have --
19 oftentimes, I have to hide patients' phones because they will
20 leave, and their abuser will call, and they know everything we
21 just talked about.

22 Seeing me as a psychiatric provider, I do primary --
23 primary care as well, but speaking mostly from my psychiatric
24 background, that's being used against people. So they're
25 being abused. They have PTSD. And then it's being brought up



1 in family court that they're crazy, and they lose some rights
2 to their children.

3 It's -- I am offering all of my extra time, which I
4 don't have a lot of. I don't know if you guys know there's a
5 mental health crisis going on right now in New Hampshire. But
6 I would volunteer all of my time to help make this better. I
7 love New Hampshire. I love my state. This is where I'm from.
8 This is where I was educated. I just want to be able to have
9 a person come into my office, be able to take their hand
10 and say, I trust that the state is going to do the right thing
11 to the best of their ability. So that's why I'm here today.

12 JUSTICE HANTZ MARCONI: Thank you.

13 DR. HODGE: Thank you.

14 JUSTICE HANTZ MARCONI: Alan Cronheim.

15 MR. CRONHEIM: Good afternoon. My name is Alan
16 Cronheim, and I'm a lawyer in Portsmouth. I am here today on
17 behalf of the New Hampshire Association of Criminal Defense
18 Lawyers. While we are criminal defense lawyers, a great
19 number of us, myself included, handle restraining order cases
20 on behalf of both plaintiffs and defendants.

21 I want to start by thanking you for your work. It
22 is both important and it is difficult. It's important because
23 we know that domestic violence and intimate partner violence
24 is real and is, unfortunately, a problem in all of our
25 communities.



1 I also know that your job is difficult. I was on
2 the first District Court domestic violence protocol committee
3 as a representative of A Safe Place, now HAVEN, that provided
4 New Hampshire's first shelter for victims of batter --
5 domestic violence. I was also on the committee that updated
6 and revised those protocols at the behest of Judge Kelly. So
7 I know that there are complex and competing issues as you
8 create public policy.

9 I've been able to work with a number of you on the
10 Domestic Violence Fatality Review Committee, so I also know
11 your commitment to these issues and, in my view, the
12 challenges to provide relief for those who are at risk, while
13 honoring fairness to the parties and due process.

14 I've listened to one of your meetings, the January
15 12th meeting, and would like to just quickly address some of
16 the things that came up during that meeting. A first and easy
17 is we fully support the distribution of court decisions that
18 inform litigants, advocates, and attorneys as to the state of
19 the law.

20 Next, focusing on sentencing in criminal cases, an
21 issue came up about criminal jurisdiction concluding after a
22 period of time and what to do for people who were still
23 impacted by the victimization which was part of their criminal
24 process.

25 I've handled a number of restraining order cases



1 filed in the Superior Court, a court with full jurisdiction to
2 enter protective orders. I don't see Dave (phonetic)
3 Vicinanza here today, but I was going to make the comment that
4 for his 21-year-old client -- you may have remembered he
5 referenced her being at church with her abuser. He can go to
6 Superior Court and get a permanent restraining order.

7 So it's not a situation -- and it -- and the
8 restraining order process is one endorsed by the Supreme
9 Court, so we know that it is a doable, functional process
10 under the law, approved by our State Supreme Court.

11 I don't know if this committee is going to address
12 the issue that I think Judge Yazinski raised about the open
13 question as to whether final hearings have to be held within
14 30 days of the filing of a protective order petition. To the
15 extent you do -- and there is value to it if there is dispute
16 within the District Court judges, the Family Court judges as
17 to how to handle it -- I would strongly encourage you to
18 recommend that temporary orders can be extended with consent
19 of both parties. So defendant has a right to a hearing within
20 30 days, but the parties, if they mutually agree, can extend
21 the temporary order.

22 In representing plaintiffs and defendants, but in
23 truth, mostly plaintiffs, I've had temporary orders extended
24 3, 6, 9, even 12 months, with the understanding that final
25 hearing on the original petition can be heard if the defendant



1 violates those temporary orders.

2 My experience representing plaintiffs is that the
3 great majority want a guarantee that the order remains in
4 place and that they are protected. And most, in truth, are
5 anxious about testifying. It's in public. It's subject to
6 cross-examination, and it's about events which create trauma
7 in their lives. So if there is a way of getting that
8 protection without the need for a full court hearing, my
9 clients, as plaintiffs, have joined that approach with
10 appreciation.

11 I was recently involved in a case where we extended
12 a temporary order for 12 months, the full relief that we could
13 get at a final hearing. But my client, who was, at the time,
14 shaking and scared, she didn't have to testify. So she got
15 the result she wanted. The defendant, who had immigration
16 issues, got a result that was of value to him because there
17 was no final order that was entered.

18 If the 30-day extension period is not allowed, my
19 client would have had to go through what I think would itself
20 have been a difficult process of testifying in court, facing
21 her abuser, and being subjected to cross-examination.

22 In all of the cases where I've used the three, six,
23 and nine-month extensions, every one of those cases, it's
24 worked. Never had somebody violate it, and I never have to
25 come back a second time for what would have been a final



1 hearing. My experience is that with that break in time, there
2 can frequently -- not in every instance, but frequently be a
3 separation of the relationship, and those folks can move
4 forward.

5 The last issue I want to address is our concern
6 about the expansion of the kinds of cases that could be
7 covered by the domestic violence statute. Under current law,
8 protective orders can be issued with the showing of criminal
9 conduct and where there's a credible present threat to the
10 petitioner's safety.

11 We think that this is a workable and an appropriate
12 standard for court intervention and the granting of judicial
13 relief. There was a discussion in your earlier meeting that
14 dated conduct was not in some way relevant to the court's
15 consideration in determining whether to issue a protective
16 order. Attorney Vicinanza mentioned (audio interference)
17 bullets.

18 The dated -- the admissibility of dated evidence is
19 allowed. It's simply not true that dated conduct is not
20 relevant to the court's consideration. RSA 173-B:1, in
21 defining abuse, specifically provides that the court may
22 consider evidence of acts, regardless of their proximity in
23 time to the filing of the petition, and that past acts can be
24 combined with recent conduct to demonstrate an ongoing pattern
25 of behavior which reasonably causes or has caused the



1 petitioner to fear for their safety or well-being.

2 The requirement of proof of a crime creates a
3 standard that courts use every day and contains elements that
4 allow a court to avoid subjective judgments of harm. If the
5 definition of abuse is expanded based on anecdotal evidence to
6 include offensive conduct -- Judge Yazinski mentioned yelling
7 at the petitioner -- there is all sorts of offensive conduct
8 which, sadly, we are aware of.

9 If that -- if it -- the standard is offensive
10 conduct that is not defined, the court will be applying a
11 standard that does not include a universal definition or a
12 definition that can be applied judge-to-judge in a consistent
13 way.

14 It's our view that the domestic violence statute,
15 combined with the stalking statute and protective orders that
16 are available as part of divorce proceedings, appropriately
17 protect victims. It is not a system that is failing, but
18 instead, one that, by and large, works, not perfectly but
19 works.

20 It's also our view that any systemic changes in the
21 law should be informed not simply by anecdotal evidence but by
22 data that provides information about the system as a whole.
23 How many emergency petitions are filed but denied? How many
24 petitions are denied temporary relief? How many are temporary
25 orders issued, but there's no request for permanent relief



1 through a final order? How many petitions are denied, and
2 sadly, based on the case that led to this -- the creation of
3 this committee, how many criminal cases follow the denial of
4 protective orders?

5 There is a whole set of other anecdotes that this
6 committee will not likely hear or be the subject of other
7 testimony. It is the whispered part of this issue, difficult
8 for me to discuss because so much of my time has been
9 advocating for plaintiffs and victims of domestic abuse. But
10 I know this to be true.

11 And it's the whispered part of this issue, the times
12 mutual contact follows the issuance of orders because
13 plaintiffs are not, in the end, in fear of the defendant,
14 times petitioners have used the protective order statutes for
15 advantage in the family court, to obtain use of an apartment
16 or a home, or to gain advantage in parenting issues. We would
17 like to think that those kinds of things do not occur. But
18 from bailiffs to court clerks to private conversations with
19 judges, we know that to be true.

20 There are times attorneys have sent their clients
21 pro se to get temporary orders that are then used for the
22 advantage in divorce proceedings to follow. But do these
23 anecdotes mean that these statutes should be narrowed? No, of
24 course not. Just as there is no epidemic of improperly
25 granted orders, I do not think there is an epidemic of cases



1 where orders were improperly denied.

2 To the suggestion of one of your members that the
3 courts have narrowed scope of these statutes, I haven't seen
4 it, nor have I heard it from conversations with family court
5 practitioners or guardians ad litem.

6 As I stated in the beginning of my remarks, your
7 work is important. It is my view that it is best approached
8 with real data and not (audio interference) of anecdotes from
9 either plaintiffs or defendants. In the end, I hope your work
10 is accomplished using -- with what Justice Hantz Marconi
11 characterized as a balancing act, and at the words of the
12 order creating this committee, in accordance with the
13 principles of equal justice for all. Thank you.

14 I do want to throw -- can I respond to the doctor
15 who just testified?

16 JUSTICE HANTZ MARCONI: Sure.

17 MR. CRONHEIM: Thank you. I wasn't prepared to
18 discuss this because I had limited time. I think one of the
19 great failings of our court system is the focus on kids. We
20 know, in ways that we didn't, perhaps, 20 or 30 years ago,
21 that domestic violence impacts kids. We also know, on the
22 other side, that when temporary orders are issued, there is a
23 likelihood of no contact between the defendant in the case and
24 those children.

25 This is part of the balancing act that I think is



1 difficult, to protect children but not to impact relationships
2 between parents and kids. And our system doesn't spend enough
3 time and enough money on kids, focusing on their needs.

4 JUSTICE HANTZ MARCONI: Thank you.

5 Kathryn Jones.

6 MS. JONES: Good afternoon. Thank you for the
7 opportunity to share my (audio interference) today.

8 30 years ago this coming July, I will have fled New
9 Jersey to become a permanent citizen of the State of New
10 Hampshire. And I did so for the safety of myself and for the
11 well-being of my then-infant daughter. And at the time, New
12 Hampshire gave me exactly what I needed for both of us. They
13 gave us, first, a restraining order. And finally, they gave
14 me full physical and legal custody of my daughter.

15 Now, what's kind of unique about my case was that my
16 perpetrator was not my daughter's biological father. But the
17 state that I came from said that because he was the only
18 father she ever knew, he had right to her. And so began a
19 six-year odyssey of trying to find permanent protection for
20 myself and my daughter. We succeeded.

21 30 years later, I am a justice advocate for victims
22 of domestic violence, primarily for protective mothers who are
23 trying to keep their children safe through the family court
24 and child protection systems. To say that the family court is
25 failing these families is a massive understatement.



1 I just learned about this hearing last night. And
2 so I've been up until 3:00 in the morning, trying to prepare
3 my notes on everything I want to say. There is entirely too
4 much to be said in respect to you folks, as well as the people
5 who are waiting to testify here. But if I could share with
6 you just a handful of the massive ways that the family courts
7 are currently failing all families where they are targeted by
8 perpetrators of domestic violence, I would like the
9 opportunity to do so.

10 One case that I dealt with that was particularly
11 horrific was a mom who was English illiterate, who was
12 representing herself through the family court in the southern
13 half of the state. This mother had access to local domestic
14 violence crisis services. She had been given access to legal
15 services, initially. But ultimately, because of her -- her
16 lack of English-speaking capability, these programs found it
17 very difficult, if not impossible, to work with her.

18 This mother was representing herself, family court
19 system, by speaking her broke English into Google translation,
20 cutting and pasting her words into motions, and then
21 submitting these documents to the court. And because she came
22 from a country where a double negative means that something is
23 really bad, as opposed to our English where double negative is
24 something that's good, she was repeatedly misinterpreted and
25 accused of lying.



1 At one point, the guardian ad litem assigned to this
2 case told the court that this mother was fully capable of
3 reading and understanding all court orders that were issued
4 from the court, which was absolutely 100 percent false. And
5 when I approached this guardian ad litem to ask her to be able
6 to interpret the court orders for this mother, the guardian ad
7 litem absolutely refused to work with me because she didn't
8 like it that there was somebody watching over her shoulder.

9 This guardian ad litem submitted motions to court,
10 threatening the mother with jail time for the fact that this
11 mother could not pay her. And in fact, I had to, in the
12 fairness of justice, find an attorney that I paid for from my
13 own money, from my own personal money, so this mother would
14 have an attorney represent her in court. And so -- and I
15 approached my church to cover the guardian ad litem funds so
16 this mother wouldn't face jail time.

17 Now, the father in this case was convicted of human
18 trafficking out of U.S. District Court in Connecticut. And
19 this father had trafficked this mother and had forced a
20 pregnancy on her, and that's how this child came to be. And
21 this guardian ad litem recommended full physical and legal
22 custody to the predator. And the only reason that the court
23 didn't grant it was because the child would have been
24 devastated by separation with the caretaking mother.

25 But the only thing that finally and permanently



1 separated that child from this predator was the fact that this
2 child was forced into contact with the predator, who was in a
3 car accident where the child had to suffer a traumatic brain
4 injury in order to be finally freed from this predator.

5 In the same town that I live in, there is a
6 convicted rapist who has full physical and legal custody of
7 his three daughters, even though he was convicted of raping
8 his ex-wife and her daughter.

9 I routinely tell women now that if they're in the
10 family court system, they are in the family court system until
11 the day their youngest child turns 18. I have clients that
12 I've been working with for over 20 years in this family court
13 system.

14 I say this with great frustration and disappointment
15 because as an advocate, when I first heard about the family
16 court system and, you know, the -- the -- the pilot project
17 that was going to be the family court, I was so excited about
18 the concept that there would be one judge who would overlook
19 the criminal aspect and the child protection aspect and
20 everything that legally related to any one family, and that
21 because they had that kind of birds-eye view of what was going
22 on, that they would be able to make appropriate orders when it
23 came to family court.

24 And from personal experience, I had seen that New
25 Hampshire had the capacity to do that. They are failing



1 routinely. Of the -- in any given month, I can be working up
2 to 275, sometimes 300 women, not just in New Hampshire now --
3 I'm a national-known advocate -- but primarily in New
4 Hampshire and Massachusetts. And fully anywhere from 59 to 64
5 percent of the mothers that I work with have at least one
6 child who is actively suicidal, wishing to die, wanting to
7 die.

8 Another 85 percent of the total number of mothers I
9 work with have at least one child who is special needs:
10 autistic, ADD, ADHD, ODD. So for me, there is a high
11 correlation -- I am not the doctor who can study all of that,
12 but there's a high correlation between special-needs children
13 and domestic violence. And it's a particular area that the
14 family courts are not equipped to address at all.

15 Up to 95 percent of the women I work with have
16 significant mental health diagnoses, but I would tell you that
17 they were -- are also likely misdiagnosed. Many of the
18 survivors that I work with have been diagnosed with bipolar or
19 with borderline personality disorder or nonspecific
20 personality disorder, when in fact, they're trauma victims,
21 and all they need is safety from their predator in order to
22 stop -- in -- in order to be able to find peace and be able to
23 recover and heal from their trauma.

24 And I would tell you, lastly, that 100 percent of
25 these victims feel revictimized and traumatized by the family



1 court process itself, 100 percent of them. Most of them
2 should be qualified for ADA accommodations through the family
3 court. I have seen victims repeatedly request them and be
4 denied them. For those ones that have been granted ADA
5 accommodations, they have to go back and fight for them every
6 single time there's a change in judges.

7 I've seen one family who's had seven different
8 judges. This is unsustainable for the survivors that I work
9 with. And as an unfunded program, I receive no funding. I
10 ask for no money from any of the survivors that I work with.
11 I am a one-woman, 24-hours-a-day, seven-days-a-week crisis
12 line. This is not sustainable. These families need help.
13 And the one thing that I love about New Hampshire is that
14 we're small enough that we can create really significant
15 change for these families if we put our hearts and minds into
16 it.

17 I don't agree -- even though I know Attorney
18 Cronheim and was part of the domestic violence program that he
19 has provided services for in the past, I don't agree that
20 victims go in to get a leg up on -- on divorce cases. And in
21 fact, in my experience, as soon as a woman claims publicly
22 that she's a victim of domestic violence, she's immediately
23 put under a microscope and denied and disbelieved.

24 One time, I created a Clothesline T-shirt for the
25 Clothesline T-shirt Project that said, as long as I kept the



1 secret, I was just a battered woman. Once I told the truth, I
2 was a bitter, violent, lying, lazy, crazy, drunken, (audio
3 interference), money-grubbing slut. He said it. The court
4 believed it. That settled it.

5 And I can tell you that every single victim that I
6 work with, when they see that t-shirt on my website, they're
7 going, yep, that's exactly what's happened to me.

8 This can't happen. It's got to change. And the one
9 thing that I would look back and say, gosh, if we made one
10 wrong turn in all of this, many, many years ago, judges
11 were -- I don't know if it was a requirement or that they were
12 asked to create family violence councils where they brought
13 together the best of the best of the local community services,
14 child protection, mental health, police, domestic violence
15 crisis centers. And judges were required to be a part of
16 those councils themselves. And there was collaborative
17 effort, and there was training and education going on.

18 And then at some point in time, it's decided that
19 with the judges heading these councils, it created an implicit
20 bias, that, you know, they would automatically be for victims
21 of domestic violence. We -- we couldn't have that. So judges
22 started walking away from those councils. And when judges
23 started walking away, so did police departments, and so did
24 child protection. And ultimately, it's domestic violence
25 crisis centers that were left holding those bags.



1 I can see the family violence councils as
2 potentially being a renewing resource that would actually be
3 available to support local judges, that could potentially
4 review domestic violence-related cases, those high-conflict
5 cases that every judge dreads, to be able to review the cases
6 and to be able to make recommendations on the basis of what
7 they're seeing in these court files.

8 I have so much more to say, but it's not fair to the
9 others, so I appreciate your time. And I will be submitting
10 more in email testimony. Thank you.

11 JUSTICE HANTZ MARCONI: Feel free. Thank you very
12 much, but feel free to submit anything that's in writing.

13 MS. JONES: Thank you.

14 JUSTICE HANTZ MARCONI: Great. Thank you.

15 Dana Albrecht.

16 MR. ALBRECHT: Good afternoon, Your Honor and
17 members of the committee. For the record, my name is Dana
18 Albrecht, and I'm a resident of Nashua, New Hampshire.

19 First, a brief background for context on my own DV
20 case and Supreme Court appeal, and then I'll speak to the
21 particulars with regard to some of the seven subjects under
22 consideration by this task force.

23 I've never committed a violent act in my life, nor
24 even been arrested prior to my family law case starting in
25 April 2016. I'm a peaceful person, and I'm a father of four



1 wonderful children. I've been in Nashua Family Court over
2 five years, starting with a six-month DV issued against me by
3 former Judge Paul S. Moore, which required that I had to
4 attend an independent fundamentalist Baptist church, located
5 in Dracut, Massachusetts, three times a week in order to see
6 my three minor children under supervised visitation by church
7 leadership, until it was finally dismissed when I got a
8 hearing six months later.

9 The only justification for that initial order,
10 issued ex parte, was that Mom and I had both read each other's
11 email as the marriage broke down at the very end. It's not
12 hard to do that when people know each other's passwords. And
13 I have to ask if that's domestic violence.

14 I've also had false criminal charges against me for
15 trespass and invasion of privacy because I showed up at our
16 marital home, pursuant to a written agreement between both our
17 attorneys for me to do so, with a real estate agent present to
18 do a walk-through of the marital home. That went to trial
19 too, and that got thrown out.

20 Most recently, I've had a second DV against me,
21 issued by Judge Mark S. Derby, which, instead of requiring me
22 to attend the Massachusetts IFB church like Paul Moore did,
23 now prohibits me from going within 2,000 feet of it, even
24 though the other party, formerly a resident of California when
25 she filed the action, is now a resident of East China,



1 Michigan.

2 So that basically came about because on the day,
3 November 3rd, Sunday service in November 2019, I wanted to see
4 my kids. So I was sitting quietly, alone in a church pew,
5 public service, hoping to see my kids. IFB church leader did
6 not agree with that. They've kind of taken sides in the
7 underlying divorce and told me I had to leave, but I could
8 come back on a different day if I wanted to listen to a
9 sermon.

10 So I guess I made the mistake of disagreeing with
11 that, and Judge Derby wrote an order to -- essentially, my
12 position, to protect the IFB church. It's been on appeal
13 twice up to the New Hampshire Supreme Court, you know, docket
14 2021-0192.

15 So I have to ask, sitting quietly, peacefully, alone
16 in a public church service, domestic violence, the finding of
17 abuse based solely on events of a single day, when there's no
18 contact whatsoever with the other party that day.

19 I just have to say I've had a bad experience with
20 the Nashua Family Court, you know, having started out with my
21 very first DV order by Paul Moore, having Julie Introcaso
22 appoint her best friend, Kathleen Sternenberg, as guardian ad
23 litem in my divorce case, and most recently, having Marital
24 Master Bruce DalPra say, who gives an F, concerning my
25 testimony, and calling my kids a bunch of morons. You can



1 read all about that in the "New Hampshire Union Leader". But
2 suffice it to say that I've kind of completely lost confidence
3 in the New Hampshire judicial system.

4 Sort of this final background, I'd also like to say
5 that my heart goes out to all of victims, sort of what I --
6 real domestic violence out there, especially the recent
7 shooting tragedy in -- tragedy in Massachusetts. But I also
8 believe, kind of looking at the past work of this committee,
9 that some of the statistics on how many orders get granted,
10 how many get denied are missing the point.

11 I think we need statistics on how often our courts
12 make mistakes and (audio interference) fail utterly at doing
13 their job. Our goal should be that in cases of real,
14 legitimate domestic violence, 100 percent of those orders get
15 granted, and in cases of false accusations, 0 percent of those
16 orders get granted. Just make the right decision. That's the
17 gold standard. I mean, granted, nobody's perfect and we all
18 fall short, but that's what we should be aiming for.

19 And with that background, I'd now like to speak more
20 directly to some of the seven subjects under consideration by
21 the task force.

22 So with regard to item 3 -- and I may hop around a
23 bit here -- making appellate decisions available to the
24 public, why isn't my appellate decision on the Judicial Branch
25 website? It's actually pretty easy to find on the internet,



1 but it's published by the "New Hampshire Union Leader" on
2 their website. You can Google it. But it's not on yours. I
3 suppose you could go next door and go over the whole docket,
4 you know, again, 2021-0192, at the law library if you want.
5 But why isn't it out there?

6 With regard to item 4 on court forms, I have to ask
7 why we can't design a court form for, say, a pro se victim
8 with no legal training, where they get to check some boxes
9 specifying exactly which parts of which statutes the defendant
10 is alleged to have violated, with some blank space for the
11 plaintiff to fill in any events or facts alleged to be in
12 violation of the statute. I mean, I think that would sure
13 simplify proceedings when all parties know exactly what's
14 before the trial court, if there's a hearing.

15 I'm disturbed that Judge Derby told me that
16 plaintiffs, in their domestic violence petitions, are not
17 required to identify by name and citation which crimes in RSA
18 173-B:1 the defendant has committed. He says, the defendant
19 and the court discern it from the facts that the plaintiff
20 pleads. And that is what happened here. And I know he used
21 the words "crimes". And you know, that kind of blurs the
22 distinction between kind of what's a civil and criminal
23 action, in my mind. Just something to think about.

24 And I still don't have any specifics on which
25 crimes -- and again, that's the word that was used in my



1 order -- I'm alleged to have committed while sitting alone in
2 a church pew in an entirely different state from where the
3 party resides. How am I supposed to discern that? So we need
4 to fix that.

5 And it's -- I'm actually going to say it's even more
6 important for the victims so the court can get right to the
7 point and not waste judicial resources on anything that's
8 irrelevant. Wasting judicial resources leads to overworked
9 judges and bad decisions.

10 With regard to item 5 on increasing access to
11 counsel, I'm concerned about that. It says increasing access
12 to counsel for only plaintiffs. And especially as they called
13 what I did crimes, how does this not run afoul of the Equal
14 Protection Clause and the Sixth Amendment to the Federal
15 Constitution? I have to say, from my perspective, it's a
16 complete reversal of all traditional American jurisprudence.
17 And I have to say I'd almost rather be accused of first-degree
18 murder than domestic violence, because at least then, if I'm
19 completely innocent and I just didn't do it, period, I have
20 the right to an attorney, you know, Gideon v. Wainwright,
21 1963.

22 I'm kind of going back to item 2 on your list. Both
23 my case and kind of the case that Judge Hall decided that
24 started this whole thing both involved events in
25 Massachusetts. So I'm a multi-state, diversity-of-citizenship



1 family law case that's involving New Hampshire, Massachusetts,
2 California, and now Michigan. And so I think we need to look
3 more into how we're handling jurisdiction (audio
4 interference), particularly in light of the federal Violence
5 Against Women Act also being kind of controlling federal law.
6 So it's not just about New Hampshire, per se.

7 These cases can involve fundamental Constitutional
8 rights; again, can, under the First, Second, and Fourteenth
9 Amendments to the U.S. Constitution. And those should be
10 subject to strict scrutiny review. I think we'd be here all
11 day if I discussed case law on the First and Fourteenth
12 Amendments. You can --

13 JUSTICE HANTZ MARCONI: Don't have time for that.

14 MR. ALBRECHT: Don't have time for that.

15 JUSTICE HANTZ MARCONI: No.

16 MR. ALBRECHT: But I point out, the Second
17 Amendment, I think, is particularly relevant just as a topic
18 in DV cases. And we've got District of Columbia v. Heller
19 from 2008 and its progeny to contend with. And not to mention
20 the New York Rifle & Pistol case that's currently pending
21 before the U.S. Supreme Court up in D.C. That's docket 20-
22 843.

23 I also think that federal case law on vagueness is
24 pretty relevant here, and I kind of put all that in my
25 appellate brief.



1 Finally, with regard to both kind of item 7 and
2 including item 4, I'd like to ask if there'd been any inquiry
3 by this task force into how many DV cases there have been
4 where a plaintiff has ever been prosecuted in any capacity for
5 providing false and malicious information on their D forms --
6 DV forms. So that's about the form also. The last DV form I
7 saw clearly stated -- so now I am going to read verbatim: "I
8 swear" -- quote, "I swear that the foregoing information is
9 true and correct to the best of my knowledge. I understand
10 that making a false statement on this petition will subject me
11 to criminal penalties."

12 And so I guess my question for this task force is,
13 what exactly are those criminal penalties? How often has that
14 happened in practice? How do we find out? You know, is that
15 via, like, an RSA 91-A, Right to Know, or like a Part 1
16 Article 8 request to, like, the Judicial Branch or the
17 Attorney General's Office or all of the various local police
18 departments? And I would ask if this Task Force would be
19 doing anything like that, or sort of would that burden fall on
20 the general public to try and find that stuff out?

21 And again, this is because I think the gold standard
22 to protect everybody is all about the court system getting it
23 right in each of these cases so that the citizens of New
24 Hampshire can get the protection from harassment, and often,
25 protection from much, much worse that they deserve.



1 And I'd like to especially thank Justice Marconi for
2 pointing out you're hearing from all perspectives.

3 And I thank you for your time. And if there are
4 questions, I can take them. Other than that, I'm done. Thank
5 you very much.

6 JUSTICE HANTZ MARCONI: Thank you for a well-
7 prepared statement.

8 MR. ALBRECHT: Thank you.

9 JUSTICE HANTZ MARCONI: Erica Austin.

10 MS. AUSTIN: Good afternoon, Justice Marconi and
11 honorable members of this domestic violence task force. My
12 name is Erica Austin, and I'm here today as a domestic
13 violence survivor, as a mother of a child survivor of
14 violence, and as an advocate for victims and survivors in New
15 Hampshire.

16 My experience with the court -- state court system
17 profoundly impacted not only my life but the life of my oldest
18 child. And I appreciate willingness to listen to my
19 experience. You all have the power to bring transparency and
20 accountability to the system for victims of domestic violence,
21 and I'm so grateful for your time.

22 Like many other victims of -- of domestic abuse who
23 are acting as a protective parent, my experience with the New
24 Hampshire judicial system left me and my child unprotected and
25 with a feeling of perpetual hopelessness. My child is still



1 not allowed to have a voice, so today, I speak for the both of
2 us.

3 To give a brief history, I was young and naïve and
4 unknowingly became involved with a dangerous person. He
5 suffers from severe mental health issues and had a lengthy
6 criminal history in both Massachusetts and New Hampshire. In
7 fact, he is a lifetime registered sexual offender. I did not
8 have access to this information when I was dating him and
9 became pregnant with our child.

10 Being a young, single mother, forced to grow up very
11 quickly, I was and am very fortunate to have the unwavering
12 support of my family. My child custody case quickly became
13 what the legal professionals call highly contentious when I
14 learned that my child was being abused during their time with
15 my ex.

16 Like many parents in my shoes, I was forced to be a
17 strong, protective advocate for my child, including inside the
18 courtroom. Although our laws state the best interest of the
19 child should be central into a parenting case, the judge in my
20 case was far more interested in protecting the rights of the
21 child's father and admonishing me for reporting child abuse.

22 The fact is that horrible acts of child abuse were
23 occurring. The ongoing abuse was evaluated and documented by
24 numerous medical professionals, and physical evidence was
25 found. Despite credible physical evidence of abuse and direct



1 disclosures from my child, the judge ignored the
2 recommendations of the guardian ad litem and every other
3 professional and ultimately ordered that our child would have
4 unsupervised visitation with their father.

5 My job as a parent was to fight for my child's legal
6 rights to safety, and that's exactly what I did. This legal
7 undertaking was not inexpensive, financially or emotionally.
8 And it became clear that the judge was furious that I would
9 not stop advocating for the court to protect our child.

10 I was penalized by this judge for reporting the
11 horrific acts of abuse against my child, but I did not give
12 up. I brought my concerns to the legislature and helped pass
13 the provision in RSA 461-A that provides safeguards for
14 protective parents who act in good faith to report abuse.
15 During that process, I met many other protective parents who
16 experienced similar retaliation by judges for bringing forward
17 good-faith allegations of serious abuse which were also
18 corroborated by medical experts, DCYF, GALs, and forensic
19 interviewers.

20 As you can imagine, this judge became even more
21 angry when he learned of my advocacy efforts outside of the
22 courtroom, including a report to the Judicial Conduct
23 Committee. My experience with this New Hampshire judge and
24 the individuals he manipulated and threatened within the
25 system for his own benefit has profoundly traumatized me and



1 forever changed how I view the world.

2 JUSTICE HANTZ MARCONI: Take your time.

3 MS. AUSTIN: He stripped me of the ability to
4 protect my child and left me with a near-constant fear that I
5 won't be able to protect my child. I do not feel safe in this
6 state anymore. He left me believing that my voice doesn't
7 matter and that it will never be heard.

8 And the pain of watching what's happening to my
9 child and seeing firsthand the injuries he returned home with
10 will forever be burned in my head. My fear of not being able
11 to protect him from a convicted sexual predator was so severe
12 that I could only lean on the support of my family, attorneys,
13 and friends that were my constants, and I am forever grateful
14 to them.

15 As I stand here today, my fear of the power of that
16 one judge is just as strong as it was back then, and part of
17 me is afraid he will hear me speak and cause further damage.
18 No one should have to live this way. The trauma this judge
19 caused to my son and myself will (indiscernible).

20 Even after my case ended, my family and I continued
21 to receive calls from individuals in New Hampshire who
22 struggled with cases similar to mine. I remained in contact
23 with the various domestic violence organizations, and
24 attorneys would hear stories, the same story repeatedly.
25 Almost four years ago, I decided I could no longer be silent



1 about what was happening, and I needed to put context to what
2 happened in my case.

3 Currently, I use my experience to partner with
4 crisis centers in Massachusetts and New Hampshire. I work
5 with (audio interference) to support women in gaining strength
6 and rebuilding their lives through a trauma-informed fitness
7 model.

8 I've learned that, through my work, my case is not
9 at all unique. I am passion -- I am a passionate advocate,
10 and I do my very best to work with domestic violence survivors
11 interested in learning skills that help give them a fighting
12 chance, even when the system is revictimizing them and their
13 children, because to be clear, the horrific event that brought
14 us all here today, where a woman was nearly killed, is not an
15 isolated case.

16 The only difference is that what happened most
17 recently is very public. It couldn't be swept under the rug
18 or hidden in darkness, where domestic violence so often fuels.
19 It shined a spotlight on a broken judicial system, but it is
20 neither isolated nor surprising to me that the failure of our
21 state court system caused this.

22 People who hear from victims and work in the system
23 need to know that these are not extreme cases. There are
24 judges sitting in the Circuit Court who simply don't want to
25 preside over domestic violence and highly contentious



1 parenting cases and who have a blatant bias against victims of
2 abuse. Further, there is, currently, no real system in place
3 to hold them accountable.

4 Although I have experienced the horrific failures of
5 this system, I stand here today because I have faith in all of
6 you. I have seen change happen in the world and in people,
7 and I believe in hope. My ask today is that you recommend
8 ways to provide real oversight and measures of accountability
9 for judges who make decisions that impact the safety of our
10 most vulnerable citizens and their children.

11 That is the most important thing you can do,
12 recommend a transparent process for accountability,
13 evaluation, training, and oversight by a group of experts in
14 the field of domestic violence. Data must be collected on how
15 judges are ruling in domestic violence cases and should be
16 accessible to the public. I should be able to see how many
17 times Judge Hall is denying protective orders versus her peers
18 who sit in other courts.

19 There are few jobs in this country where you are
20 appointed to a lifelong position with enormous power over the
21 direct safety of others, literally, life-or-death decisions.
22 The State of New Hampshire and the judiciary have an
23 obligation to ensure these enormously powerful positions are
24 not abused and that there is oversight and accountability to
25 those who are fortunate enough to be appointed.



1 The expertise is sitting right here before me, and I
2 hope that the Judicial Branch doesn't create a report that
3 sits on a shelf, gathering dust. Rather, I hope that all of
4 you will be valued as an ongoing resource to the courts, who
5 desperately need your professional expertise. Thank you. Can
6 I leave my testimony here?

7 JUSTICE HANTZ MARCONI: Vivian Girard.

8 MS. GIRARD: Thank you, Your Honor and members of
9 the committee. I first just want to say, with all this stuff,
10 I just feel like I have to say I -- I -- I feel like I'm
11 living the Chewbacca defense here. You got that one, didn't
12 you?

13 I'm sorry, but I've actually had to speak quite a
14 bit before the court study this week at the House of
15 Representatives, as well as harassment for the court study and
16 through the Senate level for the -- for the Senate committee.

17 Just to give you guys a little understanding of who
18 I am -- and as you know, I've been before this -- in this room
19 before you before, so this kind of brings back a little PTSD
20 for me. So first of all, I just want to let you know that I
21 am a business owner. I'm a good mother of two girls. I've
22 been in the court system for seven years, so my girls are now
23 13 and 15. My 15-year-old had a disability. I also cared for
24 both my parents, and now I'm just caring for my mother. She
25 is elderly with -- she's on oxygen, has a walker, and I -- you



1 probably remember back then as well.

2 Back in 2 -- August 2015, I found out that my ex was
3 cheating after me -- cheating with -- with me, after 19 years
4 of marriage. At the time, my ex had called in a false police
5 report after I found him cheating. The police came, took my
6 guns from my home. They also checked my car that day, after I
7 had 30 guns pointed at my head.

8 They (audio interference) my children out of the
9 back of my car. Again, my daughter had a disability, and she
10 was probably about eight years old at the time. There was no
11 guns, no alcohol, no drugs were found in the car, on me, or
12 anything else. I was actually brought to Lowell General
13 Hospital, where I had to get a blood test. I had to be
14 checked for suicidal. I had to be checked for all kinds of
15 things that were just a complete false report.

16 DCI -- DCYF was told that Mother was arrested, but
17 there was no arrest found. They told -- they were told that I
18 was manic, with borderline or narcissistic personality
19 disorder, which I was never diagnosed for anything; also a
20 false police report.

21 My divorce, at that point, caused my eight-year-old
22 child, at the time, to be put in a mental institution for a
23 week, because at the time, I had a court marital restraining
24 order against my ex from harassment, based on the RSA 644.
25 There were threats. There was unauthorized entry into the



1 family home, based on the RSA 635.

2 At the time, this was in December of 2015. My court
3 records contained over 400 dockets. And when courts get too
4 many deviations from the judge, this is what happens. This is
5 all the mistakes that were put on my case that I actually went
6 to court on in August of this year, just to fix my court
7 orders. And still, I don't have a valid court order. This is
8 my DCYF file.

9 Again, I'm a business owner. I'm a good mother. My
10 court dockets contain over 400 dockets. I've been to this
11 Supreme Court four times on appeal, based on child support.
12 Again, been in the system for seven years. I have 22 court
13 hearings. I had three bad judges, which I'm sure you know.

14 So the system allowed so many frivolous motions in
15 my case, even going back to funerals, remote learning, medical
16 bills, child support, and so much more. So the law should be
17 limited, also, on the harassment part that would stop the
18 scheduling of frivolous court motions. And in my case, there
19 should be high-conflict judges or family case coordinators or
20 something just to keep us out of court. And I'm going to let
21 you know why I'm going into all this at the end.

22 Unfortunately, the family court ordered so many of
23 the foundation issues on my case -- they ignored them to the
24 point that I had to come to the Supreme Court four times. It
25 became a huge financial hardship on me, which rippled down to



1 my children. If it's supposed to be all about the children,
2 it's not. So based on the lack of child support in my case,
3 as well as medical support and so on, I actually could not get
4 that support from my ex. So I was forced to be on medical
5 through the State of New Hampshire.

6 This is detriment to families by extending these
7 litigations and frivolous pleadings to the detriment of
8 financial resources. Absolutely, this affected my
9 relationship with my children because I could not do the same
10 as what my ex did. This led to huge financial impact to my
11 family.

12 So I am concerned that the rights were violated in
13 my case, not only with the false DCYF investigations, the --
14 the false harassments that were put on me because I got a
15 marital restraining order after what was seen by the judge, at
16 the time, of what he was doing, videotaping me, recording me,
17 breaking into the -- the family home. Because I had that
18 marital restraining order at the time of my divorce, I was not
19 able to keep my restraining order on him.

20 This caused seven years of harassment, legal
21 harassment within the court system. And somebody should be
22 held accountable. This jeopardized my safety because at the
23 time, they put a false domestic violence on me, being a good
24 mother, because he called in a fake police report. And by
25 calling in this fake police report, which I have it here and



1 I'd like to submit it at some point to you people, as well as
2 some of the other evidence that I show in here that they
3 released me from the hospital, saying, you two need marital
4 counseling. I said, no, I need a divorce.

5 So the incident -- just to kind of give you a quick
6 heads-up here, the incident was on 8/21 of '15. The police
7 report was 8/25 of '15. There was an ex parte done on 11/10
8 of '15 to take my guns away from me because I was in -- my
9 kids were in imminent danger to me. I lost my kids for a
10 short amount of time, until DCYF agreed that I was a fit
11 mother. Again, another thing that I did not have to go
12 through; another thing my kids did not have to be traumatized
13 with. But they returned my firearms on 8/11 of 2016.

14 Just to recap that, it took three months from the
15 time this false police report went through for them to take my
16 firearms. I had some guy harassing me day and night, just
17 constant harassment in my family home, with my children, with
18 my elderly parents. Took three months to take my firearms
19 away. After that, it took me 10 months to return my firearms.
20 That is not a normal DV. I've never had anything on my
21 record, never had an arrest, never went to court for it. But
22 I had to go to court for the return of my firearm.

23 All I can say to you guys today is the emotional
24 trauma that it caused not only me, my children, my elderly
25 parents, the PTSD of waking up in the middle of the night,



1 terrified for every noise, and I had no way to protect myself
2 or my family. And just like being in this room today, it --
3 I -- I came in here, and I -- my heart just started racing
4 because this is where I had a lot of bad memories.

5 This behavior just has to stop. The impact on the
6 kids is huge. The impact on me was huge. I have friends here
7 today: Dana, Dave, Angela (phonetic). Thank you for your
8 support. The -- when my sister-in-law died a couple weeks
9 ago, Dana wanted to come to my sister-in-law's funeral. He
10 could not because of a false DV on him. And let me just give
11 you an idea of why that is. His church --

12 JUSTICE HANTZ MARCONI: (Audio interference) course
13 (indiscernible) --

14 MS. GIRARD: Yeah, that's okay.

15 JUSTICE HANTZ MARCONI: -- into the --

16 MS. GIRARD: I'm done.

17 JUSTICE HANTZ MARCONI: -- topic here. All right.

18 MS. GIRARD: And -- and the topic is his church was
19 right next door to the funeral home. False DV, through
20 church, funeral home next door, he couldn't go because it was
21 next door.

22 I met a lot of good people because of this, so I --
23 I have to say this did bring one good thing to light here.
24 But families should not go through this. Being delimited on
25 what you can do, the fact that I lost my -- my safety and my



1 security and my freedom, my Second Amendment rights, RSA 633,
2 was taken away from me. My protection for my family was taken
3 away from me in my most -- my -- my most precious time, when I
4 needed it, when I -- when I was being harassed, when I was
5 concerned about my safety. I had no way to protect myself or
6 my kids because of a false DV on me. And I have no grounds
7 for it. So I just would like it to stop.

8 JUSTICE HANTZ MARCONI: Thank you.

9 MS. GIRARD: Thank you.

10 JUSTICE HANTZ MARCONI: Dave Smith.

11 MR. SMITH: Good afternoon, Your Honors, members of
12 the staff. I don't public speak, so please try to enjoy me as
13 much as everyone else does.

14 I came to this from a slightly different angle as
15 well. I echo the sentiments of Mr. Albrecht. I consider
16 myself an innocent respondent of 173. I owned a home, a small
17 home-based business, a word-of-mouth contracting business at
18 the time. And once the idea had circled around town that I
19 beat my wife, which I was never even accused of, my business
20 fell apart like wildfire.

21 For some reason, I wasn't allowed my work property,
22 as required by law. And upon demanding -- me demanding to
23 Marital Master DalPra to give me my work property back, he
24 said he gave me everything I need. And it then took me
25 another two years to get my stuff back, working through my --



1 with my father-in-law, despite, by the time I had got it, I
2 was already awarded it after the divorce was over. So it's
3 completely unnecessary.

4 In my case, I was having a consensual relationship
5 with someone else, and then I found myself served with a DV in
6 which I was found to have sat on my wife eight months earlier.
7 I was given no opportunity to -- to deny this, present any
8 evidence, present any testimony or police reports or anything.

9 After the hearing, was awarded a unique 90-day DV
10 from Julie Introcaso, which allowed me to go to the house
11 every day, do child exchanges at the house. And of course,
12 they had no good reason to appeal because the alternative
13 would have been the statutory year.

14 So went straight to the police department after my
15 hearing to report this fraud against me, as I saw it. And I
16 recall a detective stating that the extreme low standard of
17 173 and the fact everything is domestic violence is why I was
18 there. Well, I'm here to mount an opposition to this madness.

19 Any story of good and evil can easily be manipulated
20 when only one side is telling their predetermined narrative.
21 Based on lack of standards that the DV has to do with
22 assumptions and harmful dissemination of false information and
23 the court's flagrant disinterest in the other side of the
24 story, it caused me a lot of harm.

25 173 is an amazing mechanism for building precedent



1 or shutting down Constitutional rights and civil liberties in
2 the name of security. I hear a lot of discussion about
3 victims of abuse and their abusers. And that's real. I get
4 that. But I don't hear much about the rights of the accused
5 or innocent respondents, or even -- especially if the
6 respondent did nothing whatsoever.

7 You can't just create a minority group of people and
8 then treat them differently. 173-B operates under a real due
9 process defect. 173 is structured to push stress -- stressed
10 and scorned alleged victims into bad or even illegal behaviors
11 for the exchange of a little control in their life and an easy
12 reward at taxpayer expense, not to mention the expenses to the
13 parties and the children.

14 I felt completely overwhelmed by an unstoppable wave
15 of what I see as lawlessness under the illusion of law with a
16 branch of government. How 173 can be used as a card to gain
17 the upper hand in divorce, eliminate the presumption of
18 equitable division of property, and a way to slander and libel
19 someone, I just can't figure out.

20 Our judicial system was set up to protect the rights
21 of all. But in the cases of 173, it's instead used to overrun
22 some of us. It allows enablers and glorifiers the ability to
23 break stuff, annoy people, and generally harm the otherwise
24 good relations that must exist between the parties in all but
25 the most extreme cases.



1 This scheme currently requires that the innocent
2 shall suffer along with the guilty. If you look at the
3 criteria for abuse, the extreme imbalance of power, creating
4 fear, controlling everything, controlling, managing all the
5 money, interference of freedom, legal harassment, placing
6 people in fear of their safety, and otherwise limiting
7 someone's pursuit of happiness, then in my case, the absolute
8 grand champion of abuse is the State of New Hampshire using
9 173 on me. That's stunning.

10 If a -- it seems to me if a junior high class were
11 asked to write a law without using civil rights, they might
12 come up with something like this.

13 I'd be happy to answer any questions or discuss this
14 further with the committee.

15 JUSTICE HANTZ MARCONI: Thank you.

16 MR. SMITH: Thank you.

17 JUSTICE HANTZ MARCONI: You don't do so badly for
18 not having public speaking training.

19 MR. SMITH: I appreciate it. I appreciate that.
20 Thank you.

21 JUSTICE HANTZ MARCONI: Ashley Stowers.

22 MS. STOWERS: Good afternoon. Thank you for the
23 opportunity to just speak today. I'll apologize in advance.
24 I mostly have bullet-pointed statements because this is
25 something that, for me, passion is going to invoke a little



1 bit more empathy here. And I can tell you that reading the
2 list of points that were meant to be discussed today, my
3 initial reaction to everything on the list was I have
4 something to say about that.

5 I am here today because I am a domestic violence
6 survivor. And unfortunately, my experiences with the court
7 have been negative, to say the least. When I was 17, I was
8 groomed by a predator 10 years my age, and I found myself in
9 an abusive situation.

10 When I was 18 years old, I found out that I was
11 pregnant. And I -- I very quickly realized that any thought
12 that I may have had that something would change, at that
13 point, was fruitless.

14 When I was finally able to get free, I did have to
15 file for a restraining order, which was granted.
16 Unfortunately, to my abuser, it was a piece of paper, and it
17 was an inconvenience for him to achieve his goal of owning me
18 in every sense of the word. He broke into my house and
19 kidnapped me at gunpoint when I was almost eight months
20 pregnant. He put me in the back of my vehicle, tied up like
21 an animal, and he drove around with me for almost five hours,
22 looking for a spot to kill me and dispose of my body.

23 He was charged with six Class A felonies. He was
24 given a plea deal for 13 years. And the conditions of his
25 sentencing mandated that he not have any contact with me, my



1 immediate family, or anyone living in my household for a very
2 long time. And additionally, I still had my domestic violence
3 protective order that was granted to me at the time he
4 violated it, which, for him, was a felony charge, as he had
5 done so previously.

6 My daughter, who will be 10 years old this year, has
7 never, ever known anything about this situation. His name was
8 never put on her birth certificate. I asked for nothing
9 except safety. In August of 2014, he filed a parenting
10 petition. And for those of you who are not familiar with the
11 aspect of receiving one of those, it was jarring in the
12 situation, to say the least, but on top of that, it's
13 incredibly invasive.

14 He requested mediation. He requested to sit in a
15 room with me and asked for access to my child. As the
16 conditions of his sentencing stated, he was not to have any
17 contact with me. And I spoke to the court. I spoke with the
18 county attorney who I had dealt with. And they agreed that
19 that was a violation of his sentencing. And a judge agreed as
20 well and suspended -- took some of his suspended time, gave
21 him an additional two to four years, as there was a lot of
22 suspended time.

23 His case was brought before the Supreme Court, and
24 that decision was reversed. And while I -- I understand the
25 perspective that would have led to that decision, what



1 astounded me was the fact that I felt there's -- there's no
2 way all of the information could have been available and led
3 to the same conclusion.

4 When I received that paperwork from the court, I was
5 not given an option to refuse. There was no opportunity for
6 me to say, mediation is beyond inappropriate, and this is why.
7 And he was not forthcoming, on the paperwork, about the true
8 condition of his sentences.

9 I was told if I didn't go to court, a warrant would
10 be issued for my arrest. And when I spoke to the court
11 officials and I explained my situation and I said, please,
12 this -- this is incredibly inappropriate; this doesn't apply
13 here, they told me I had no opportunity to do anything about
14 it, unless I chose to file a termination of parental rights,
15 which I was financially responsible for, and I would have been
16 financially responsible for mediation.

17 I had to fight every step of the way to stop a
18 guardian ad litem from coming into my home and speaking to my
19 daughter, who knows nothing about who this person is, and the
20 entire time, the helplessness that I felt at feeling why do I
21 have to explain why my child needs to be safe? Her best
22 interests should come first. There was nothing that I could
23 do. And had I not had the support of my family, there is
24 absolutely no way I would have been able to afford to do
25 something like that.



1 To say that it traumatized me further doesn't begin
2 to cover it. But the protection that I'm supposed to be have
3 to be safe, that my child is supposed to have to be safe, that
4 was the one thing that they could give me when they sentenced
5 him. And then it was gone.

6 That has weighed on my mind since 2016, when that
7 decision was delivered by this court. And I was contacted by
8 the victim advocate I had initially dealt with, who went out
9 of her way to do it because she said, you won't have an
10 opportunity to speak. There isn't anything you can do. There
11 isn't anything you can say. But she wanted me to know.

12 And to think that for somebody who's -- who's been
13 through the things that I have, and for my daughter, who I
14 have fought tirelessly to make sure she never has to see that,
15 to know that for somebody who's been in my shoes, they were
16 told, he has a Constitutional right to request to know your
17 tax information, how much money you spend on utilities; for
18 the next step in the process, to ask me where I work, where my
19 daughter's pediatrician's office is, who she goes to day care
20 with, what my mental health history looks like, and that he
21 has access to all of that information, and I can't do anything
22 about it unless I can afford to hire an attorney to fight it
23 in court. It broke me for a long time.

24 In 2019, I hit the five-year mark for the renewal
25 portion of my restraining order, which I continued to renew,



1 despite the protective orders from the court, because after
2 that decision, I knew I don't have that to rely on. My
3 restraining order was finalized at the end of May. And in
4 2019, the date that it fell on happened to be Memorial Day
5 weekend.

6 I went the following business day, and I was told
7 that because I was technically two days too late, according to
8 the date, they couldn't help me. I've read those orders back
9 to front, multiple times. And there's nothing in it that
10 states, we'll allow you to come in early. I always came on
11 the day, and I was standing right outside the court because
12 there isn't anything more important than my safety or my
13 child's. There's nothing. It wasn't arbitrary on my part.
14 It wasn't punitive. It was necessary.

15 And I did appeal to a judge that same day. And I
16 sat, and I waited. And they said, if you want to do anything
17 about it, you have to file a new one. You'll have to come
18 back to court. You'll have to sit in a room with him. You'll
19 have to see him. You'll have to go through the process all
20 over again. And since he's incarcerated, I don't know that
21 there's anything that you can do; it's really not that
22 important right now, just like the parenting case I was told
23 the paperwork isn't written for situations like yours. There
24 just -- there just isn't an option for you because we don't
25 really deal with it all that often, so I was told to deal with



1 it.

2 And that's unacceptable. The law is meant to
3 protect me, not him. It's meant to protect my child. He made
4 his bed. And I'm only here because I fought to live, not
5 because he changed his mind. My daughter is a happy, healthy,
6 amazing child, who has never had to experience even a -- a
7 second of a life like that.

8 To know that unless anything changes, to give people
9 more opportunities to get help, to have access to help, to
10 have cases be looked at on an individual basis, instead of
11 being told, just don't see cases like this very often. The
12 very first letter in the packet of a parenting petition says,
13 I am writing to you as parents, not as parties in a court
14 case.

15 And that monster is not a parent, and he's certainly
16 not a parent to my daughter. But to be treated as if we're
17 just divorced people that can't get along and that the
18 paperwork reflects that because it doesn't matter; it's not
19 that big of a deal; it doesn't come up very often, so we don't
20 need to change it. You need to accept less, accept less
21 protection, accept less safety. That's what we can give you.

22 To know that I go to file my restraining orders, I
23 go to get them renewed, I take it seriously because I need it,
24 and sorry, we can't help you; you'll have to go through all of
25 that very traumatizing process again, and we may not help you



1 this time because he's incarcerated, so what does it matter?
2 That's unacceptable. There's nothing on that paperwork that
3 says, we will accept 30 days beforehand paperwork for an
4 extension. There's nothing, and there's no excuse why that
5 can't be there. There's plenty of other unnecessary verbiage
6 in some of those forms, and I'm sure you know that.

7 There's nothing for me, the onus always on a
8 survivor to do anything to help themselves. And not everybody
9 can afford to do that, both financially and mentally.

10 And I -- I -- I implore you to consider some of
11 these things -- I could stand here all day, but I won't --
12 because I can't allow my daughter to grow up in that kind of
13 world and know that I -- I didn't do anything to make it so,
14 God forbid, that happens to her or somebody else's daughter or
15 sister or mother or wife, that they'll go through exactly what
16 I did, because I can't tell you the number of times I didn't
17 want to get out of bed and do it again.

18 JUSTICE HANTZ MARCONI: Thank you.

19 MS. STOWERS: Thank you.

20 JUSTICE HANTZ MARCONI: Thank you for sharing. And
21 should anything else come to mind, feel free to submit written
22 comments in addition. Thank you.

23 MS. STOWERS: Thank you.

24 JUSTICE HANTZ MARCONI: Gary Apfel.

25 MR. APFEL: Good afternoon, Your Honor. And good



1 afternoon, everyone else on the committee. Thank you for
2 allowing me and other members of the public to address you
3 this afternoon.

4 I currently practice law in Lebanon, New Hampshire.
5 I began my legal career in 1988 as a law clerk for a federal
6 magistrate judge in the District of Connecticut. For 14 years
7 after that, I worked as a public defender, about 10 years of
8 trial work and 4 years of appellate work. And since 2003,
9 I've been in private practice, where my work consists of
10 representing criminal defendants, representing victims of
11 crime, representing individuals in domestic violence petitions
12 and stalking petitions. I also have somewhat more limited
13 experience but experience in abuse and neglect cases and some
14 divorce work.

15 My point of telling you that is that yesterday's
16 victims are oftentimes today's defendants. And today's
17 defendants are oftentimes tomorrow's victims. And I -- I
18 think Attorney Hornick, who has served as a public defender
19 and as a county attorney, knows exactly what I'm talking
20 about. And if there are other members of the commission who
21 may or may not be here today but who have done the sort of
22 work that we do, we know that that happens.

23 And my point of telling you that is that there are
24 instances -- and I think you've heard about some of them
25 today -- where there are some people who do really bad things,



1 and there are some people who have had really bad things done
2 to them. And I've represented people in both those
3 categories. But by and large, most of the people that we're
4 dealing with from day to day are people who have complex
5 situations. They do good things and bad things, and they're
6 struggling as people, as many of us do, just to be alive and
7 be a person.

8 And when we run the risk of stereotyping them, in
9 one way or another, as being all good or all bad, bad things
10 happen. So I come to you here this afternoon. My primary
11 thing for you -- there is another issue I'd also like to
12 address, but it's the importance for even-handed justice.

13 I need not remind you that this is a Judicial Branch
14 task force. It's not an attorney general or Executive Branch
15 task force, and it's not in a Legislative Branch task force.
16 It's imperative that Judicial Branch remain fair and even-
17 handed. And I know, Justice Hantz Marconi, that you have set
18 that tone as the theme of what should happen.

19 Policy making, as well as individual cases, need to
20 be fair and even-handed. And there must be an appearance as
21 well as actual administration of justice that is fair and
22 even-handed. The consequences of failing to do so are
23 enormous. They concern Constitutional denial of due process
24 if we're not fair and even-handed. There's a concern about
25 dissatisfaction of individual litigants, which I think that



1 you've certainly heard something about this afternoon. And
2 more importantly, or perhaps most importantly, we run the risk
3 of distrust of the public at large.

4 The stakes for plaintiffs can be quite significant.
5 They are people who need, oftentimes, physical separation from
6 potentially dangerous partner. And there's the issue of
7 psychological security. The stakes for defendants are also
8 really high, and they include the right to parent one's
9 children, the right to live in one's home, to maintain stable
10 housing, the right to maintain one's employment and earn an
11 income, and the right to associate with others within the
12 community of whom both plaintiffs and defendants in these
13 cases are members, relatives and friends.

14 I also need not tell you that the impacts are
15 immediate when one ends up in court involved in a domestic
16 violence petition or stalking petition, because issues are --
17 are often decided on an ex parte basis, initially, and the
18 orders are immediate. So I say again that any recommendations
19 from this task force must also be even-handed, and they must
20 comply with an even-handed and fair treatment standard.

21 I am concerned several proposals from the task force
22 members to date fail to meet this standard. It is not okay,
23 as Judge Yazinski suggested, that judges should be able to
24 guide plaintiffs via questioning to develop facts sufficient
25 to have a sufficient temporary or final order.



1 I'm not aware of any judge who aids defendants in
2 developing exculpatory evidence, either by questioning
3 defendants or by cross-examining plaintiffs in court. And
4 I -- I would support what has been suggested by some task
5 force members. It has been suggested here as well, which is
6 also practiced, by the way, in the State of Vermont, because I
7 live in a border community, that the (audio interference) has
8 developed check-off-the-box forms, which are supported by
9 additional narrative evidence. And that's a really good idea.

10 And what that does is -- I mean, I also should tell
11 you I practice in front of Judge Yazinski on a regular basis.
12 He's one of the best judges in the Circuit Court bench, and he
13 wants to do the right thing. I'm sorry I'm not here to engage
14 in discussion with him about it personally this afternoon. So
15 like, I think, all of you, he's trying to make sure the right
16 thing is done and make sure the people who are in need of
17 services aren't deprived them.

18 But I would challenge him, and I would challenge
19 Judge Carbon, if you were handling one of these cases, and/or
20 anyone else to walk down the streets of -- of -- of Claremont
21 or Plymouth and say to someone, listen, I want to know if you
22 were a litigant -- litigant in a case, and someone on the
23 other side, I helped that person prepare the complaint against
24 you on a ex parte basis and asked them questions about that,
25 and then I'm going to decide your case; is that okay by you?



1 And there's no member of the public would say that's all
2 right, not one.

3 It is not okay, as it was suggested by Attorney
4 Krueger, to hide from defendants domestic violence petitions
5 that have been denied because they weren't adequate, or at
6 least that's how I understood what she was saying when she
7 spoke at the January 11th meeting. Maybe I misunderstand
8 that, and if so, I apologize. But we can't have documents
9 hide -- hidden from one side so only the other side is aware.
10 It's not a fair and just way to run a system, and it creates a
11 perception that what we're doing is -- is not even-handed.

12 It's not okay for the Judicial Branch to facilitate
13 access to counsel for plaintiffs without also doing the same
14 thing for defendants, as is, I understand, the task force
15 proposal.

16 I've been a member of the Bar Association (audio
17 interference) Services Committee -- well, it's changed names
18 now, and -- and function has been reduced, but since 1990.
19 And we struggled for years with the -- with the issues about
20 providing adequate legal services for the vast number of
21 people who can't afford lawyers. It's a huge issue. It's one
22 we struggle with all the time, and it's one that we're
23 constantly having conversations about how (audio interference)
24 lawyers to help; how do we simplify forms; how do we make the
25 system more friendly, what's inherently unfriendly for pro se



1 litigants.

2 And we're not prepared as a society, and certainly,
3 the State of New Hampshire and our legislature is not prepared
4 to say that we're going to have a legal aid system that
5 provides whatever legal services for whatever sorts of civil
6 cases when people can't afford them. Perhaps we should, and I
7 think there are pros and cons for that. But that's certainly
8 not going to come out of this task force or this next
9 legislative session because it requires an entirely different
10 way about thinking about how we, as a society, operate.

11 And short of that, if we're talking about developing
12 a system -- and it -- trust me that not only judges but those
13 of us who represent individuals, whether they are victims or
14 whether they are defendants, when there's not a lawyer on the
15 other side, it makes the work for all of us much harder. And
16 oftentimes, it does make the results less fair.

17 I also see a lot of cases where due to the goodness
18 of -- of many lawyers who are willing to offer voluntary
19 services to alleged victims of domestic violence, that they
20 appear without charge. The Bar Association has a program for
21 that, and the DOVE program. We have no program like that for
22 defendants. And if they're not charged criminally -- and
23 that's a separate forum, separate cases, and not something
24 that's immediately in front of the task force right now --
25 they oftentimes end up in court unrepresented.



1 And they're oftentimes subjected, if they don't want
2 to lose their children, if they want to have a place to live,
3 that they need to testify. And there's been discussion in
4 task force about defense lawyers asking questions of -- of
5 plaintiffs without representation. It works the other way
6 around as well.

7 And again, the point I stress to you, that as a
8 Judicial Branch task force, it's important for you to seek
9 systems and resolutions and make recommendations to court and
10 whatever recommendations made to the legislature that help all
11 of these people in need.

12 Alan Cronheim talked to you, earlier on today, about
13 how, oftentimes, parties, in fact, reach negotiated
14 resolutions in these cases, sometimes with findings of
15 domestic violence, sometimes with continuations of temporary
16 orders.

17 What I also want to tell you, as someone who's
18 working in the trenches, is that there are absolutely cases
19 where people will never have contact with each other again and
20 should not. And I think you heard testimony about that just
21 before I spoke -- I got up to speak this afternoon. And there
22 are some other mechanisms that, also, we have for dealing with
23 that, not only equity petitions in the Superior Court, but
24 if -- in a situation I just heard, it's not clear to me why
25 someone didn't advise that poor person why she shouldn't have



1 sought a termination of parental rights for the other
2 individual.

3 But most of the cases -- and I think it's what we
4 need to be concerned with, about the ones we're dealing with
5 from day to day -- are people who are going to -- whether they
6 like it or not, are going to continue to have a relationship
7 with each other for a really long time to come.

8 And a lot of times, a six-month or a year cooling-
9 off period does that for them. And they have some mechanisms
10 through the family court that allows things to work, people to
11 counsel, people to communicate with each other on a limited
12 basis. And I find, representing both sides, that more often
13 than not, they want to do something about that because their
14 children are demanding it and because they feel that their
15 children need that. It also depends, of course, how old the
16 children are.

17 But if we treat everything as it's all good or all
18 bad, and we don't have mechanisms to deal with it in a even-
19 handed way, we don't serve those people who need our help as
20 the professionals, whether we're lawyers, we're judges, we're
21 victims, we -- advocates, we're psychologists, whatever we're
22 doing. We're letting those people down. And the bigger issue
23 that we need to look at is how do we provide other services so
24 it's not either just -- it's abuse, no contact, or it's not
25 abuse, and go about your way.



1 And we are letting people down in that way as well.
2 I know that Dr. Hampton has talked about some of the -- the
3 scientific studies dealing with some issues, but with respect
4 to domestic violence, I would submit to you there's a lot of
5 other work going on as well, including about issues about how
6 to ultimately make families stronger.

7 The third issue I'd like to address is that of --
8 composes with respect to the expanded definition of abuse.
9 The current definition effectively requires two things.
10 First, there must be an enumerated criminal act. And by the
11 way, I think the suggestion about saying which criminal act or
12 acts that are alleged is actually a really good idea on a
13 check-off-the-box form. It makes it clear for everyone about
14 what's going on.

15 Second element required by RSA 173-B is that there
16 be a credible, present threat of danger. There have been
17 various proposals to eliminate one or both of these criteria,
18 and they are problematic, both conceptually and as a practical
19 matter, for judges and for litigants.

20 For example, I know there has been discussion from
21 the task force with respect to the issue of financial abuse.
22 And I say to you, how do we define that? When is it okay for
23 one partner to decline to spend money that she or he earned on
24 something that the other party wants? How about a family
25 member or one's sibling or one's child or, in a domestic



1 violence statute, we also allow petitions for roommates. Are
2 we going to talk about financial abuse in that context, and
3 what does that mean?

4 Question arises, is there any right to set limits in
5 a financial relationship between individuals, and when does it
6 cross over the line? If so, how will a statute give adequate
7 notice to individuals what is and isn't permitted? And are
8 courts prepared to take evidence regarding what, in that
9 context, might be years of purely economic data, when that
10 oftentimes, in divorce cases, which, increasingly, I try to
11 avoid taking as part of my practice, are multi-day proceedings
12 that often require resolving of these types of issues?

13 I submit to you that we now have a clear statute.
14 And I'm not denying that one can use one's economic situation
15 as a power mechanism against another person in ways that are
16 inappropriate. What I am saying to you is -- is that that is
17 a very difficult thing to define in a way that we can have a
18 workable court system.

19 The issue is even more so with respect to emotional
20 abuse. How do we define that? Is being mean to someone
21 adequate grounds to lose one's home and one's kids? And how
22 mean can you be without being too mean? That's a -- that's,
23 again, a very, very difficult thing to -- to try and figure
24 out.

25 And to the extent that you're going to be making



1 recommendations to the legislature about potential
2 modifications in our statute, I urge you to think about where
3 that's going to lead us. It's just going to make -- and these
4 cases are oftentimes, especially if there are not lawyers
5 involved, cases that are decided in half an hour. And that's
6 with testimony from both sides, because that's all AOC will
7 say is allotted for these cases by weighted caseloads. And
8 that -- and -- and getting into those sorts of things in these
9 contexts, it's very difficult.

10 The ultimate test, I submit to you, with respect to
11 domestic violence and stalking statutes, is that they should
12 be remedial in nature. And I apologize for (audio
13 interference) off from another jurisdiction, not specific
14 cases, but there's a lot of Vermont law on that. I just
15 happen to know that because I often practice there. I'm not
16 sure how much we discuss that in our New Hampshire case law,
17 and I did not research that issue before coming in front of
18 you this afternoon. But I am fairly certain that's the notion
19 (audio interference) statute as well, or statutes, I should
20 say, which is to prevent harm from happening.

21 And it's one of the reasons why we have relaxed the
22 rules of evidence. It's one of the reasons we have relaxed
23 the burdens of proof and that we've made other accommodations.
24 What that means is the statutes are meant to prevent a
25 credible danger of real and immediate, imminent harm. When



1 that is not of concern, there are other adequate forums
2 available when there is no imminent danger.

3 There are divorce lawyers. And I think Judge
4 Yazinski talked about that. There are parenting plans. For
5 household members, there are also civil suits, including
6 intentional infliction of emotional distress. And we've
7 talked some also, again, this afternoon about termination of
8 parental rights.

9 So I -- I would sum up by saying that I urge you, as
10 I think it's your goal to do, to -- to think about coming up
11 with mechanisms that improves the system, that improves it for
12 all the litigants that are involved. And certainly, both of
13 us who -- and I think Mr. Cronheim said this. There are few
14 of us who are in private practice who aren't representing
15 people on both sides, because we're running business, and we
16 take money where it comes from.

17 So we're -- we're aware that these sorts of things
18 are going on, and it's important to us because we know that
19 one day it's one side, and one day it's the other. And as I
20 indicated, you know, people who, as children, are emotionally
21 abused or physically abused or sexually abused, they often end
22 up in trouble as defendants in the system. And it's
23 oftentimes -- I mean, it really is true. I represent both,
24 first once as a victim, then as a defendant, and then a victim
25 again.



1 And I urge you to think of these as all people who
2 need help and support, even though that sometimes means, you
3 know, providing restrictions, separating people, and other
4 sorts of things like that. And thank you for letting me
5 address you this afternoon.

6 JUSTICE HANTZ MARCONI: Thank you.

7 Good?

8 Christine Monigle. Did I get that right?

9 MS. MONIGLE: Yes. All members of the New Hampshire
10 DV Task Force, Counselor, Chief, Doctors, and ladies and
11 gentlemen, thank you for the opportunity to speak with you
12 today.

13 I have two boys. I've been separated and then
14 divorced from their father since they were one and a half and
15 two and a half years old. We had lived with their father in a
16 foreign country until the time of our separation, when I moved
17 back to my home in Boston.

18 We separated soon after our older son had been
19 hospitalized for a week during his second birthday, due to
20 trauma and anxiety. Boston Children's Hospital, where we were
21 sent from our country of residence, recommended that Child
22 Protective Services be activated back in the country we lived
23 in. Soon after, I filed for divorce in Massachusetts for
24 cruelty and abuse and was awarded sole legal and physical
25 custody of both boys by Suffolk County Family Court in Boston,



1 Massachusetts.

2 In 2016, I moved to the State of New Hampshire with
3 my two sons, who were five and six years old at the time. A
4 year later, I filed my Massachusetts order in New Hampshire
5 Family Court and had their father served in his country, as
6 he's not an American citizen or a resident.

7 Both biolog -- both boys -- I'm sorry. Boys'
8 biological father can travel to the United States on a B-1/B-2
9 visa by U.S. Immigration. The January -- in January 2018,
10 when my request to move the Massachusetts court order to New
11 Hampshire was being heard, unbeknownst to me, upon arrival to
12 the New Hampshire court, their father also appeared for the
13 first time in a U.S. court.

14 Over the past six years, he had not only not been in
15 contact with the boys but only saw them six times,
16 disappearing for months and even years at a time. My cell
17 phone, email, and counsel were the same as they had always
18 been since the time of our separation. Nonetheless, I agreed
19 to mediate and would agree for him to see the children if he
20 agreed to work with their -- their therapist and the IEP team
21 at school to reunify with them.

22 After his first meeting with the children's local
23 therapist, he -- she called DCYF and the children's school. I
24 filed an emergency ex parte, requesting the order to stop
25 contact immediately. A guardian ad litem was then ordered by



1 the New Hampshire court. This guardian ad litem provided
2 hospital reports from Boston Children's Hospital, their
3 school, and IEP records from a number 1 school district in New
4 Hampshire, psychiatric notes from the largest and most
5 respected hospital in New Hampshire, and phone contact with
6 the children's local therapist.

7 She also initiated a supervised visit with herself
8 and the children's father. She pushed through with the visit,
9 despite the fact that the school had emailed and called her to
10 report that the older child, the same child that had been
11 hospitalized, had run away from school and couldn't be found
12 for over an hour.

13 Nonetheless, the GAL reported that the visit went
14 fine, such that the court then ordered the parents attend
15 coparenting therapy, that Father spend two three-day weekends
16 with the children, once in February and again in April of
17 2019.

18 At the February visit, I had to force my children to
19 see their father to comply with the court order. But they
20 refused to stay overnight with him. I brought them back and
21 forth to his hotel for three days, staying with them, at his
22 request, to make it easier for them.

23 Between February and April, we had Zoom coparenting
24 therapy, up until the boys' father receive -- refused to
25 participate. The therapist wrote a letter to our counselor



1 and counselors and the GAL that I had attended every meeting
2 but that the father was passive-aggressive, uncooperative, and
3 not showing up to the scheduled meetings, and therefore, was
4 discontinuing coparenting therapy.

5 When their father returned in April, I again
6 delivered my children to his hotel, where he berated me in
7 front of the children regarding the coparenting therapy
8 later -- letter. Then he forced the children to stay with him
9 overnight, did not allow them to call me, did not provide the
10 older children his medicate -- the older child his medication
11 or CPAP machine, as prescribed by the children's doctor, all
12 in contempt of the order.

13 I reported this to the GAL, counselors, and
14 children's therapist. But again, the GAL stated to the court
15 that reunification was complete and recommended to the court
16 that the children be allowed to leave the United States with
17 their father for a one-week visit to his home and visit his
18 family, despite the fact that the children had never been away
19 from their mother that long.

20 In August of 2019, at Boston Logan Airport, I handed
21 my children's passports over to my abuser and watched my
22 children walk away, not knowing if I would ever see them
23 again. But I was told if I did not do so, I could risk being
24 incarcerated.

25 They did return, and my older son was traumatized.



1 I took videos, showing the GAL and the court regression,
2 dissociation, meltdowns, and full shutdowns. Despite
3 discussions with local therapists, hospital psychiatric notes,
4 DCYF reports, IEP school reports and behavioral charts, and
5 coparenting therapist letters, the final report that the GAL
6 presented to the New Hampshire court stated the only credible
7 source the GAL had spoken to about me and the children was a
8 woman that we had not seen in seven years and lived in the
9 father's country.

10 This was the only credible source the GAL claimed,
11 which she had no professional license, no certifications, and
12 no experience with child trauma. The woman was, in fact, a
13 friend from church.

14 The report went on to say that credible source did
15 admit that there was yelling, hitting in our home.
16 Nonetheless, the GAL wrote that I, the mother, was well
17 educated; I had access to money and travel. Therefore, she
18 did not believe that I or the children had been abused while
19 living with the father in a foreign country.

20 In 2019, I was kept on the stand for one and a half
21 days by opposing counsel, going page by page through my older
22 son's hospital reports. I was berated and accused of
23 Munchausen by proxy and parent alienation -- alienation. Yet
24 I stayed calm, while every part of me was screaming in pain.

25 The boys' father was on the stand for about 30



1 minutes, maybe. And at that time, he finally admitted
2 emailing me a sorry for my behavior and the way I treated you
3 email. His mask then fell off, and he blew up on the stand,
4 to the point where his lawyer had to advise him to stop
5 talking.

6 After hearing all of this, you would think that I
7 would have maintained the Suffolk County's order for me to
8 have sole legal and physical custody. I did not. The order
9 is joint decision-making, and I have the veto vote or final
10 decision-making, after I have proven that I have a discussion
11 with the boys' father.

12 To this day, he continues to block my ability to get
13 the children back into therapy, as court-ordered, outside of
14 school. And within months after the final trial, the father's
15 counsel filed five additional contempts against me when I
16 tried to get them back into therapy.

17 It's been nearly three years since that order.
18 Their father never followed the Massachusetts order. He has
19 never followed the New Hampshire order. And he's still out --
20 in and out of the boys' lives for weeks to months on end.

21 At one time, he came to see them in the last two
22 years for a four-day visit. I overlooked the court-ordered
23 documentation he was supposed to provide me and even received
24 an email from the -- their father's counselor, thanking me for
25 not weaponizing the pandemic. Yet again, the boys didn't want



1 to spend time with their father. They came home furious and
2 hurt due to his behavior.

3 The boys are now 10 and 11 years old. They have
4 their own phone now and refuse to speak to him. They send him
5 text messages telling him to leave them alone. So I again got
6 involved and called him on the speakerphone to help them work
7 it out between the boys. He proceeded to rant and rave,
8 berate me, gaslight the children, make it all our fault. He
9 did not send birthday gifts, Christmas presents, and has not
10 called since.

11 If he's true to form, he will file against me in
12 court again in a few months or a -- a few years for another
13 round, and I will go bankrupt again trying to protect my
14 children. I have been told by counsel that my children won't
15 be heard by the court until they're 13 or 14 years old, nor
16 will the court care about my one bad visit during the
17 pandemic.

18 After the last visit and a 20-year career in
19 academic research support, I have changed my profession. I am
20 now a certified -- I am now certified in all 50 states as a
21 high-conflict divorce coach. I am also a trained survivor
22 supporter on a 24-hour crisis line. I spend most of my
23 nights, sometimes all night, in emergency rooms, police
24 stations, and on the phone, helping survivors.

25 I help them and work with their lawyers to prepare



1 highly triggering documentation so that it clearly shows
2 unhealthy parenting, co -- counter-parenting, child
3 manipulation, abuse, threatening communication. And I help
4 survivors coparent with -- coparent and communicate with their
5 abuser when they are ordered to do so by the courts, under a
6 microscope, so that they don't lose access to their children
7 to their abuser.

8 Please help me help them. Please train counselors
9 and guardian ad litem and judges to acknowledge what is right
10 in front of them. Please listen to the children and be
11 accountable for holding abusers accountable for what they do
12 to their spouses and their children.

13 Thank you so much for your time and your attention.

14 JUSTICE HANTZ MARCONI: Thank you.

15 And Betty Gay.

16 MS. GAY: Thank you very much. I'm not a great
17 speaker. I'm one of those politicians who's against the rules
18 because I'm not a good speaker and I can't remember people's
19 names. But I appreciate all very much that y'all care deeply
20 about this problem.

21 As a -- an abused mom many years ago, I was lucky
22 and didn't have to go through family court. My ex didn't want
23 me to mention that he had a 20,000 dollar gun collection, so
24 we split everything else down the middle. I got the kids, and
25 he broke their hearts because he didn't want to see them very



1 much. So you know, two years apart, he'd see my son two
2 weekends for about two hours. And they'd sit there and wait
3 for him.

4 So my experience is very different. You know,
5 actually, it turned out to be a blessing that he wasn't
6 involved. And now he's very hurt that his kids don't want to
7 see him. So that's the reward you get, you know, when you
8 don't want to be a parent.

9 I just had to send my glasses off to get them a new
10 lens, so we're going back to my adjusted vision. I have lots
11 of bullet points, so I'll try to stop talking in sentences and
12 just give you a whole lot of subjects that I've become aware
13 of from people who called me once I became a rep. And I could
14 read messages that they would send everybody.

15 I answered one because when Kathy (phonetic) --
16 Kathy was quoted in the article, so I gave great credence
17 because I've known Kathy for about 22 years. So I -- I
18 know -- I know this person now, and that was my baptism into
19 how many awful things can happen to you in family court.

20 I don't want to paint all judges and all court
21 officials with the same brush. However, there are so many bad
22 apples, they need to be rooted out. And when I found that a
23 trusted friend, who you would know if I said her name, so I'm
24 not going to say it -- she'd kill me. When she found out
25 about things like reunification therapy, she had never heard



1 of it. Everybody loved the judge that she had ever met, loved
2 the judge who was ordering it.

3 And it wasn't -- so I said, can I send you
4 testimony, written testimony, by people who had endured it?
5 She's a really good reader, so she said, yes. And after she
6 read the 10 pages, she sends me a text: this is really
7 disturbing. So she has started asking judges about this
8 particular judge.

9 And one of them said to her -- and of course, she's
10 not going to tell me who he was, either. Anyway, he said, oh,
11 that judge? If he has a choice to give custody to a mother
12 who is a protective mother, who has always taken care of the
13 children, and a guy who's just got out of prison after 10
14 years, he's going to give the kids to the guy.

15 Okay. That breaks my heart that people know bad
16 things are happening, but they're not willing or there is no
17 system for them to speak out and to hold people accountable
18 and get them off the bench. They -- they probably are good at
19 some other form of law, but not children and children going
20 through ACEs.

21 If we don't reform family courts so that children DV
22 victims get the best treatment, the children grow up with many
23 ACEs, and we know, tragically, most of them have their lives
24 really screwed up. The need for training, updated training in
25 domestic abuse, is critical for court personnel, not just



1 judges; GALs, everybody who has a decision-making part.

2 I'm trying to quote -- I'll just have to use my own
3 words. You're probably familiar with the attorney Barry
4 Goldstein. He's written multiple books about domestic abuse
5 and court. And he's pointing out, which was reinforced by the
6 Jenesse Center in California that had a -- a seminar with
7 mothers from all across the country, talking about losing
8 their children to abusers. One of -- one of -- I'm losing my
9 thought because I'm thinking of three things at once.

10 One of the ways to reduce domestic abuse is to make
11 judges not make decisions and expect the police to follow
12 them. If somebody breaks a restraining order, they're
13 supposed to be arrested. The -- his last book was about
14 success at greatly reducing domestic abuse, simply by
15 enforcing the law. And the city in Massachusetts where the
16 Adams were from, which -- Quincy. It's in the title of the
17 book. But something as simple as just follow the law and
18 don't slap wrists; really make it hurt when you break the law.

19 But we really, really need to train court personnel
20 and judges how to recognize domestic abuse. It's not bruises
21 anymore. The threat of bruises is what keeps most families in
22 line. But you don't have to define exactly what financial
23 coercion is. When you get to court, you can discuss it.
24 People can figure out what coercion is.

25 If you have a whole lot of money but -- well, when



1 you see -- when you go through a -- a divorce, you can see
2 coercion. The abuser has a really good attorney, and the
3 abused doesn't because -- usually, it's a she, 90 -- what, 97
4 percent. She doesn't have access to the money. So that's
5 just one example.

6 Stop reunification therapy. It is a favorite
7 created by Richard Gardner. He was also known for advocating
8 for sex with children, that it didn't hurt them; reporting it
9 was more damaging to them than the abuse itself. That's in
10 writing. You do have to look for it because the people who
11 favor reunification therapy sure don't want us to see that.

12 Reunification therapy is not family therapy. I am a
13 strong supporter of family therapy that's done by a person who
14 has training, and they get certified after they've been
15 observed. They don't just, you know, order a (indiscernible).
16 But you -- if you're any kind of therapist or a therapist at
17 all, you can hang out a shingle that says you're a
18 reunification therapist, and you can be ordered.

19 Currently, despite what a judge said in my hearings
20 the other day, I have 16 bills in front of the House right
21 now, each one a separate issue to try to adjust unfair
22 practices in family court. I'm sorry. I go off, but just so
23 many things.

24 I had a judge come to speak against my bill on
25 reunification therapy because she likes to order it. I'll --



1 if you are interested, I can send you the testimony from five
2 people what it was like to go through. It looks like North
3 Korean interrogation. It was, oh, you don't want to see your
4 abusive parent? Well, you need to make a relationship. It
5 doesn't matter if you were abused. You need -- it's more
6 important to have relationship with them, so you will come to
7 counseling, and you will speak -- sit in front of your abuser
8 for one to two hours, maybe even up to four hours a week for
9 months.

10 Often, it's the abused parent who gets to pay for
11 this. It's, like, 150 to 300 dollars an hour. And others
12 have said, I don't make that much money in a week. And this
13 particular woman, who I can quote, they said to her, your
14 parents can pay for it. That's got to be illegal. But who
15 are you going to talk to? Who are you going to appeal to when
16 you are told in no uncertain terms that if you don't do what
17 you're told to do, you are going to lose your kids; their --
18 their custody is going to be given to the abuser?

19 Part of my bills are to give more alternatives.
20 It's -- it's in these cases -- I don't mean that this happens
21 all over the state. But it is happening. It's continuing to
22 happen, and we've got to stop it. And it's -- it's a money-
23 making -- money-making scheme. Reunification therapy, because
24 it has no training and no certification, it has no medical
25 code. Therefore, you can't get any insurance coverage. So



1 you pay out of your pocket this huge amount of money.

2 That's not the only kind of counseling that can be
3 ordered. I mean, they can order, and they do -- judges do
4 order regular kind of personal therapy from certified people.
5 But it can be excessive. It can be going for a year and
6 out -- or two, and outstrip what your insurance covers.

7 So not only are you going through the heartache of
8 dealing with somebody who's abused you, you also are being
9 impoverished. Most people going through divorce -- you know,
10 some people are rich. But most people are pro se because they
11 don't have the money.

12 Justice needs to be timely. Telling someone, well,
13 we're going to schedule a hearing, and then you don't hear
14 from them, and finally, it gets scheduled 10 months away,
15 that's an eternity in the -- in a life of a child, and it's
16 also an eternity if you're not getting child support.

17 One of the favorite things to do to the abusers --
18 abusers do because they're mad they got left, so they're going
19 to do whatever they can do to get even, is don't pay child
20 support until you get the summons that we're going to go to
21 court to make you pay. So then the week before, you send the
22 checks.

23 However, right now, nobody assesses them a penalty
24 for doing this. So meanwhile, the person who's supposed to
25 get the child support has had to do without, go without paying



1 bills, hiring an attorney. It's just not fair. See, I should
2 have put a 17th bill in that says you get penalty if you do
3 this.

4 JUSTICE HANTZ MARCONI: Well, that's it. And there
5 isn't. There's your legislative efforts, and then there's
6 what we're doing here, which is working within the system
7 we've got and making recommendations for improvements. So
8 you're right. There are two different efforts here.

9 MS. GAY: Super. And hopefully, we're reinforcing
10 each other. I will try now to stop speaking sentences and
11 just give you the bullets because they're so many more. Let's
12 see. I said justice needs to be timely. I'll just throw out
13 some little facts here.

14 16 times as many abusers lie as victims. When I
15 presented last year, one woman on the children and family law
16 actually said -- when I'm talking about abuse and testimony,
17 she says, women lie. Oh, cool. All women lie, and men don't.
18 Okay. There's -- there's the statistics. 16 times they -- as
19 many abusers lie.

20 I do -- I will agree about creating some forms. And
21 we have so many pro se people, and it's really hard on court
22 people to deal -- court staff to deal with people who don't
23 know proper procedures. It would be great to have, you know,
24 a court procedures for dummies kind of book. So you have
25 these options, and you know if you don't do this, you only



1 have 10 days to do this.

2 I have a bill that says you have a right to submit
3 evidence in a hearing or testimony. Right now, in -- in the
4 family law family rules, the only way you get to submit
5 evidence is if the judge lets you. That's not a right.

6 Have the right to approve or choose a court-ordered
7 counselor. These are your kids being sent to somebody that
8 turns out, in some cases, these are friends, friends of the --
9 friends of the court, friends of the judge, friends of the
10 GAL.

11 JUSTICE HANTZ MARCONI: Well, and then our focus
12 here is a little narrower than everything that goes on at
13 family court, because I'm just kind of --

14 MS. GAY: Well, my concern, of course --

15 JUSTICE HANTZ MARCONI: Right.

16 MS. GAY: -- is DV. And what I was shocked to find
17 out is if you -- if you allege that a domestic abuse is why
18 you want a divorce, at least in my county, you automatically
19 get sent to high-conflict court, which implies that you're
20 fighting -- you know, two people are fighting each other. If
21 you're a victim of domestic abuse, that is not an equal fight.
22 You wouldn't be abused if you were equal.

23 One of my bills says, you have the right to -- a DV
24 survivor has a right to have support person present with them
25 when they're testifying or being deposed. That's because that



1 became aware of how -- how important that was when a person
2 who already testified, who's the counselor, Dr. Rhonda Hodge,
3 had a victim of DV who was so traumatized -- her PTSD was so
4 strong that she could not go up by herself and depose with her
5 abuser and his attorney present. She didn't have an attorney.
6 And she was, emotionally, real close, even if she'd had an
7 attorney.

8 The NHCADSV had provided a support person. And I
9 know they can be wonderful. I have a dear friend who has
10 been. But this person knew her counselor, and that was the
11 only person she felt secure. The judge would not let her do
12 that.

13 She said, I offered everything I could. I
14 thought -- I said, okay, if I'm not looking at her, if I just
15 go up with her, I hold her hand, I look away, would that be
16 okay? Nope, he wouldn't do it. They had a ton of evidence of
17 the domestic abuse. They wouldn't accept it unless she
18 testified, so the guy walked, scot-free. And believe it or
19 not, the NHCADSV sent somebody to testify against my bill.
20 They did not want a person to have their friend, somebody
21 close to them who reassured them. They did not want that.
22 They only wanted one of their people.

23 A couple of the women who are on the committee -- I
24 stayed afterward because it was lunchtime -- they could not
25 believe that the NHCADSV was sending somebody that immune to



1 feelings.

2 JUSTICE HANTZ MARCONI: Can we hear the rest of your
3 recommendations?

4 MS. GAY: Limiting harassing or intimi --
5 intimidating repeated court filings. You've heard -- you've
6 heard some testimony now about being dragged into court again
7 and again and again. We have -- we have RSAs. I thought it
8 was RSA. Maybe it's a court rule. But you can't go asking
9 for changes in child support, I thought, but every three
10 years. Does the -- some judges are allowing people to do this
11 every two months. Why?

12 JUSTICE HANTZ MARCONI: And again, I'm just going to
13 move things toward domestic violence, not --

14 MS. GAY: Okay.

15 JUSTICE HANTZ MARCONI: -- every other
16 (indiscernible).

17 MS. GAY: Well, the trouble is, you know, you think
18 if you get divorced that the DV stops. Sadly -- sadly, it
19 goes, usually, until the youngest child -- for an abuser. I
20 don't mean all people who this -- but in the case of domestic
21 abuse, the abuse continues until the youngest child is 18 and
22 child support stops.

23 And so this continued harassment is part of the DV.
24 You can keep people impoverished, and going to court
25 repeatedly is impoverishing. It interrupts with your work.



1 You can get fired for doing it. It interrupts with your
2 personal business if you're running one. So it's -- it is DV.
3 It's just continued.

4 Let's see. Relative to -- I've -- I've some really
5 juicy bills. Relative to the procedures for guardian ad
6 litem, okay, guardians ad litem are supposed to be the
7 spokespeople --

8 JUSTICE HANTZ MARCONI: Right.

9 MS. GAY: -- of my understanding.

10 JUSTICE HANTZ MARCONI: And just because, again,
11 your bills will have a legislative forum, we're focused on
12 strictly domestic violence things today. So guardian ad
13 litem are a little beyond our scope.

14 MS. GAY: Well, the tragedy is that sometimes
15 they're abusers --

16 JUSTICE HANTZ MARCONI: Right.

17 MS. GAY: -- and you can't get rid of them. So I
18 have a bill that says you could appeal because we know there
19 is a guardian ad litem licensing board that you can appeal to.
20 So far, we haven't heard of them doing anything when a
21 guardian ad litem acts like they're supporting the parent
22 paying them.

23 One woman told me, that -- that guardian ad litem
24 saw my children for 20 minutes and then said they needed
25 reunification therapy. She didn't even know them in 20



1 minutes. And it was then -- then the RT was very abusive.
2 Yeah, I just said that. The GALs, the -- the bad ones are
3 representing the parent paying them.

4 I think -- I think I've given you, you know, 90
5 percent of what I've learned that needs to be addressed. So
6 thank you very much for being patient and caring.

7 And, oh, I -- I'll make another promise. As a
8 legislator, I will support increasing the budget. I have now
9 recently learned that the budget for the courts got cut
10 severely in 2010. And just like DCYF or DHHS, their budget
11 got cut severely. And now that we have a child who was -- who
12 is missing, and we have very little hope of finding her, maybe
13 now we can get the attention of the people who will vote to
14 increase the budget so we can hire adequate personnel. So
15 thank you.

16 JUSTICE HANTZ MARCONI: Thank you.

17 Anyone in the audience who wants to speak but may
18 not have signed up on a form? Any more forms? All right.
19 We're going to suspend --

20 MS. HORNICK: Justice, excuse me.

21 JUSTICE HANTZ MARCONI: Yes.

22 MS. HORNICK: I believe one of the speakers said
23 that there's someone else that you're aware of.

24 MS. HEIDEBRECHT: Yes. I didn't sign up.

25 JUSTICE HANTZ MARCONI: That's okay. Do we have



1 another speaker?

2 MS. HEIDEBRECHT: Sure.

3 JUSTICE HANTZ MARCONI: Okay.

4 MS. HEIDEBRECHT: Thank you for forming this task
5 force. My name is Sarah Heidebrecht. I am a mother of a six-
6 year-old. And we live in Hanover, New Hampshire.

7 People often congratulate DV survivors for leaving.
8 If you're a parent, as I know you've already heard, you never
9 leave that situation entirely. I respectfully recommend that
10 you consider some of the following points as you're working
11 through your items.

12 One, that you would update the definition of abuse
13 to include emotional abuse, course of control, and post-
14 separation abuse. There is a post-separation abuse DV wheel.
15 It somewhat mimics the really normal DV wheel that many of you
16 have seen. But it's more specific to what happens after you
17 have left your abuser. And I think it's really important that
18 the judiciary is aware of what some of those behaviors are and
19 what they might look like after you've left some of that
20 initial relationship.

21 I ask that you create new legislature and laws that
22 protect against child safety, emotional abuse, coercive
23 control, and post-separation abuse, both in criminal cases and
24 in family cases, and under that, that you somewhat abolish the
25 term "high-conflict," which I think you've also heard that



1 implies that what is happening is the fault of both people.
2 And not to say, you know, everyone's a saint or a sinner in
3 these cases. But predominantly, there's usually one person
4 who is truly at fault.

5 That you require judges to notify survivors in all
6 family cases that mediation isn't mandatory when there is a
7 concern or finding of domestic violence. While I know it's
8 written in the statute somewhere, that's not always clear to
9 survivors on the front end. And attorneys are always game to
10 push for mediation. And I feel like some of survivors' rights
11 are lost that way because it's not explicitly clear that you
12 do not have to attend mediation.

13 Protect survivors in discovery requests, including
14 depositions, when a batterer attempts back-door access of
15 prosecutorial information between cases.

16 Then tried to do some research on this because it
17 happened to me. And in this case, my ex was trying to get
18 information for his own civil case and criminal case. And
19 because he couldn't get that from the prosecutor, he requested
20 it from me through discovery and deposition, for his own
21 purposes. And that was very traumatizing on me, and I also
22 did not have the same access to a DV advocate or other
23 attorney, you know, help with that to know how to stop that.

24 So I ask that you remove the friendly parent
25 statute, which is -- I believe is 461-A:6(g). I'm not quite



1 sure why that statute was added, but often, DV survivors may
2 not behave the same way towards their abuser as you would
3 expect. You're not always going to be buddy-buddy and warm
4 and fuzzy. And an abuser is very good at manipulation and
5 very good at showing the face that needs to be shown in that
6 moment.

7 And I think that statute penalizes the survivor
8 because calling the police for a welfare check because you
9 haven't heard how your sick child is for four days; you don't
10 even know what -- you know, do they still have the fever, et
11 cetera, et cetera, you know, the survivor is punished because
12 that's viewed as, perhaps, invasive, yet they're not seeing
13 kind of the lead-up as to why that, you know, you're not
14 coming off as friendly. Like, you want to know if your child
15 is well and alive.

16 And then mandate counseling between coparents, but
17 the history of DV should never be ordered. In my own case, I
18 was ordered to coparenting therapy with my abuser and
19 threatened that I would lose time with my child, did I not
20 seek this therapeutic intervention.

21 And I quote an order of the judge: "In keeping with
22 the legislature's clear preference that the court support
23 frequent and continued contact with both parents, the court
24 hopes the parties work diligently to follow the GAL's lead to
25 resolve their case therapeutically for the benefit of minor



1 child and so court is not forced to determine whether minor
2 child should lose time with the parent."

3 And then point 3, educate judicial officials and
4 professionals with modern research in child safety, domestic
5 violence, course of control, et cetera, et cetera, such as the
6 adverse childhood experiences study, ACEs; the Meyers
7 (phonetic) study, which was sponsored by the U.S. Justice
8 Department; the Sanders (phonetic) study, authored by
9 Rosenfeld and Oberman; and the Santa Monica University study
10 authored by Desap Sanders (phonetic), as well as there are
11 other mechanisms abusers use, such as DARVO.

12 It's a acronym for deny, attack, reverse victim
13 offender. It's a very common tactic used to kind of throw
14 off -- you know, you claim something has happened. You say
15 it. The abuser deflects that and blames you for something
16 else. And all of a sudden, he or she looks like the victim.
17 It happens a lot more frequently than you realize, until you
18 understand what's going on.

19 And then consider implementing a domestic violence-
20 specific court with highly trained professionals, as other
21 states have done. I think this would streamline some of the
22 congestion that is happening in the family court system, where
23 you have these, in some cases, highly complex cases that need
24 extra attention to move them along safely and effectively, but
25 they're not moving at all. And then you don't have the degree



1 of training with all of those judicial professionals that's
2 needed. So I -- I know other states have done this
3 successfully, so I hope you are able to look at that.

4 And then I ask that you improve the gender balance
5 in all judiciary positions. I think that is just, like, so
6 important. I mean, the -- the majority of this task force is
7 women. Like, I don't -- you know, I don't know what that's
8 saying. But is it because women care about this subject
9 because it happens to them more often?

10 And then, you know, if our judges are predominantly
11 male, like, are they going to care about it as often? I don't
12 know. But equity is really important if we're representing a
13 population that is roughly 50 percent male, 50 percent female.

14 And I ask that you update the protocol, licensing,
15 and enforcement for batterers' intervention programs or
16 therapists. In my case, my ex was ordered to batterers'
17 intervention in his criminal case. He found a program in
18 Vermont. We live right on the border. He was eventually
19 terminated from that program due to multiple citations in his
20 records, due to his behavior.

21 He enrolled in something that a therapist was
22 offering in New Hampshire and passed her program in half the
23 time mandated by the state's regulations. So I don't know how
24 this happens. And you know, that was in his criminal case.
25 When it was brought to the attention of the family court



1 judge, they didn't care.

2 These interventions in criminal and -- and maybe in
3 family cases are relying on programs which are not following
4 the state's recommendation to address violent and abusive
5 behaviors, predominantly in men and fathers. And you know,
6 batterers' intervention itself is a whole another topic,
7 and -- but if people are ordering that as part of a plea deal
8 and it's not having the effect needed or desired or wanted,
9 then it's like, what's the point? And then you're letting
10 people back into the public who haven't completed,
11 essentially, their, you know, jail time, except it's in -- in
12 a program.

13 So and then I ask that you admonish attorneys and
14 judicial officials and hold them to a higher standard for
15 name-calling survivors in court, in motion practice, in
16 correspondence, particularly in family court. Stop attorneys
17 and judges from perpetrating false stereotypes. Report
18 attorneys and judges for conduct and hold them accountable.
19 And apply genuine consequences and recommendations when those
20 are brought before the judicial review board.

21 Some of the comments that I have heard -- and these
22 are just a few from an attorney -- hysterical, unhinged,
23 woeful tale of victimhood; I have represented many true
24 victims of real domestic abuse on many occasions; you are
25 clearly not such a person.



1 From a judge, what type of DV are we talking about?
2 I hear this stuff all day long.

3 From a GAL, he's just a knucklehead.

4 From a clerk, can't you have some humanity?

5 And I think for the clerk specifically, you know,
6 what these people do all day long, I was a pro se litigant.
7 And so my Bible are the court rules. I mean, I know nothing
8 else. It's walking into a foreign country. And so I'm trying
9 to follow those rules to a T, while none of the other
10 attorneys are. The clerks don't seem to care. And then I am
11 punished for following the rules. And it -- I mean, it just
12 makes no sense.

13 So yeah, and then also, I know this happens, but
14 partner with DCYF to stop DV and post-separation abuse by
15 investigating the -- a person if they're responsible for false
16 accusations of child abuse.

17 Remove the DCYF anonymous number. I'm sure this has
18 benefits and negatives, but when you are called in for a false
19 accusation through the anonymous number, it's really awful,
20 and especially when that likely happened by the abuser
21 himself, you know, trying to get me in trouble.

22 Prosecute individuals who falsely report. And
23 also -- this may be protocol but didn't happen in my case --
24 require police to immediately report to DCYF if a minor was
25 present at a DV incident or arrest.



1 And then lastly, about the -- the gun statute, my
2 ex's guns were removed at -- at the onset of the events in my
3 case, when he was arrested. We're still in a case, four and a
4 half years later, but the criminal case, I would much rather
5 do anything in criminal court because there's actually factual
6 evidence, and it legitimately moves through the system, but --
7 and perjury actually means something.

8 But to the gun statute, my ex, during this time, has
9 applied to get his guns returned to him twice, both denied due
10 to the federal statute and his actions. And so no one would
11 really understand how threatening this might feel, that he
12 knows what he did; he's admitted that he was at fault by
13 pleading guilty, but because the court told him to, he put our
14 protective order docket on the gun form, return of firearms
15 form. And so I received a notification that he was requesting
16 his firearms back, not the criminal case, where the police
17 originally took the guns from.

18 And so there seems to be, like, a loophole there
19 that's a little messed up. And I asked the judge to move it
20 to the criminal docket, and they just ignored me. But I was
21 personally sent both notices and -- and invited to attend,
22 which I did.

23 He was denied. But you know, that strange
24 occurrence, which no one would really foresee, like, it didn't
25 allow me to have access to a criminal attorney, ask questions,



1 or a DV advocate, aside from our local organization like
2 the -- the county victim's advocate I'd worked with. You
3 know, like, it really -- it was just very confusing that the
4 return of firearms was only lodged under the protective order
5 docket.

6 So I just wanted to finish up and say Governor
7 Sununu proclaimed November this past year, in 2021, Family
8 Court Awareness Month. It's somewhat ironic that it didn't
9 garner any attention, but your task force was started in
10 November. And unfortunately, a child, Harmony, was lost or
11 reported lost in November. And I think what led to this task
12 force happened this fall.

13 So I just really appreciate the work you are all
14 doing on this. I know there's a lot to do. But I hope some
15 of these considerations will be reviewed. Thank you.

16 JUSTICE HANTZ MARCONI: Thank you very much.
17 (Indiscernible).

18 Do we have any other people who would like to
19 testify, give your statement? Any more sign-up sheets?

20 Then I believe --

21 MS. GAY: Ma'am, may I ask a question? If we have
22 any -- oh, I'm sorry. If we have any material that we think
23 is on your subject, is there any way to send it to you? Can
24 we email it?

25 JUSTICE HANTZ MARCONI: Absolutely. And there's a



1 form piece of paper out front.

2 MS. ZINKIN: Like this.

3 JUSTICE HANTZ MARCONI: Looks like that. Three
4 ways. Telephone call to the court information center toll-
5 free number.

6 MS. GAY: Okay. That's on here?

7 JUSTICE HANTZ MARCONI: Email, comment email. And
8 also with a stamp through the post office to the court here.

9 MS. GAY: Y'all must really pay attention to that
10 because they're so rare, so --

11 JUSTICE HANTZ MARCONI: It's true.

12 MS. GAY: Thank you. Thank you.

13 JUSTICE HANTZ MARCONI: You're welcome.

14 Anyone else? Then I think we -- yes.

15 MR. ALBRECHT: May I respectfully ask that you just
16 read the email address for everyone for the record, for anyone
17 listening? Thank you.

18 JUSTICE HANTZ MARCONI: Does someone have -- thank
19 you. dvtaskforcecomments -- all one word,
20 dvtaskforcecomments@courts.state.nh.us.

21 Okay. Then I think we will close the hearing, and
22 thank you all very much. We very much appreciate your input
23 and your comments. Thank you.

24 (Proceedings concluded at 3:37 p.m.)
25



CERTIFICATE

I, Cheryl Odom, a court-approved proofreader, do hereby certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, to the best of my professional skills and abilities.

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Proofreader

March 23, 2022



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